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DISCARDED

PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

The United States,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 4, 1876.

PRECEDED BY A

LIST OF PAPERS AND FOLLOWED BY AN INDEX OF PERSONS AND SUBJECTS.

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MESSAGE.

To the Senate and House of Representatives:

In submitting my eighth and last annual message to Congress, it seems proper that I should refer to, and in some degree recapitulate, the events and official acts of the past eight years.

It was my fortune, or misfortune, to be called to the office of Chief Executive without any previous political training. From the age of seventeen I had never even witnessed the excitement attending a presidential campaign but twice antecedent to my own candidacy, and at but one of them was I eligible as a voter.

Under such circumstances it is but reasonable to suppose that errors of judgment must have occurred. Even had they not, differences of opinion between the Executive, bound by an oath to the strict performance of his duties, and writers and debaters must have arisen. It is not necessarily evidence of blunder on the part of the Executive because there are these differences of views. Mistakes have been made, as all can see and I admit, but it seems to me oftener in the selections made of the assistants appointed to aid in carrying out the various duties of administering the Government—in nearly every case selected without a personal acquaintance with the appointee, but upon recommendations of the representatives chosen directly by the people. It is impossible, where so many trusts are to be allotted, that the right parties should be chosen in every instance. History shows that no administration, from the time of Washington to the present, has been free from these mistakes. But I leave comparisons to history, claiming only that I have acted in every instance from a conscientious desire to do what was right, constitutional within the law, and for the very best interests of the whole people. Failures have been errors of judgment, not of intent.

My civil career commenced, too, at a most critical and difficult time. Less than four years before, the country had emerged from a conflict such as no other nation had ever survived. Nearly one-half of the States had revolted against the Government; and, of those remaining faithful to the Union, a large percentage of the population sympathized with the rebellion and made an "enemy in the rear," almost as dangerous as the more honorable enemy in the front. The latter committed errors of judgment, but they maintained them openly and courageously; the former received the protection of the Government they would see destroyed, and reaped all the pecuniary advantage to be gained out of the

then existing state of affairs; many of them by obtaining contracts, and by swindling the Government in the delivery of their goods.

Immediately on the cessation of hostilities, the then noble President, who had carried the country so far through its perils, fell a martyr to his patriotism at the hands of an assassin.

The intervening time to my first inauguration was filled up with wranglings between Congress and the new Executive as to the best mode of "reconstruction," or, to speak plainly, as to whether the control of the Government should be thrown immediately into the hands of those who had so recently and persistently tried to destroy it, or whether the victors should continue to have an equal voice with them in this control. Reconstruction, as finally agreed upon, means this and only this, except that the late slave was enfranchised, giving an increase, as was supposed, to the Union-loving and Union-supporting votes. If *free*, in the full sense of the word, they would not disappoint this expectation. Hence, at the beginning of my first administration, the work of reconstruction—much embarrassed by the long delay—virtually commenced. It was the work of the legislative branch of the Government. My province was wholly in approving their acts, which I did most heartily, urging the legislatures of States that had not yet done so to ratify the fifteenth amendment to the Constitution. The country was laboring under an enormous debt, contracted in the suppression of rebellion, and taxation was so oppressive as to discourage production. Another danger also threatened us—a foreign war. The last difficulty had to be adjusted, and was adjusted, without a war, and in a manner highly honorable to all parties concerned. Taxes have been reduced within the last seven years nearly three hundred millions of dollars, and the national debt has been reduced in the same time over four hundred and thirty-five millions of dollars. By refunding the six per cent. bonded debt for bonds bearing five and four and one-half per cent. interest, respectively, the annual interest has been reduced from over one hundred and thirty millions of dollars in 1869 to but little over one hundred millions of dollars in 1876. The balance of trade has been changed from over one hundred and thirty millions against the United States in 1869 to more than one hundred and twenty millions of dollars in our favor in 1876.

It is confidently believed that the balance of trade in favor of the United States will increase, not diminish, and that the pledge of Congress to resume specie payments in 1879 will be easily accomplished, even in the absence of much desired further legislation on the subject.

A policy has been adopted toward the Indian tribes inhabiting a large portion of the territory of the United States which has been humane, and has substantially ended Indian hostilities in the whole land, except in a portion of Nebraska, and Dakota, Wyoming, and Montana Territories—the Black Hills region and approaches thereto. Hostilities there have grown out of the avarice of the white man, who has violated our

treaty stipulations in his search for gold. The question might be asked why the Government has not enforced obedience to the terms of the treaty prohibiting the occupation of the Black Hills region by whites? The answer is simple: The first immigrants to the Black Hills were removed by troops, but rumors of rich discoveries of gold took into that region increased numbers. Gold has actually been found in paying quantity, and an effort to remove the miners would only result in the desertion of the bulk of the troops that might be sent there to remove them. All difficulty in this matter has, however, been removed—subject to the approval of Congress—by a treaty ceding the Black Hills and approaches to settlement by citizens.

The subject of Indian policy and treatment is so fully set forth by the Secretary of the Interior and the Commissioner of Indian Affairs, and my views so fully expressed therein, that I refer to their reports and recommendations as my own.

The relations of the United States with foreign powers continue on a friendly footing.

Questions have arisen from time to time in the foreign relations of the Government, but the United States have been happily free during the past year from the complications and embarrassments which have surrounded some of the foreign powers.

The diplomatic correspondence submitted herewith contains information as to certain of the matters which have occupied the Government.

The cordiality which attends our relations with the powers of the earth has been plainly shown by the general participation of foreign nations in the exhibition which has just closed, and by the exertions made by distant powers to show their interest in and friendly feelings toward the United States in the commemoration of the centennial of the nation. The Government and people of the United States have not only fully appreciated this exhibition of kindly feeling, but it may be justly and fairly expected that no small benefits will result both to ourselves and other nations from a better acquaintance, and a better appreciation of our mutual advantages and mutual wants.

Congress at its last session saw fit to reduce the amount usually appropriated for foreign intercourse by withholding appropriations for representatives of the United States in certain foreign countries, and for certain consular officers, and by reducing the amounts usually appropriated for certain other diplomatic posts, and thus necessitating a change in the grade of the representatives. For these reasons, immediately upon the passage of the bill making appropriations for the diplomatic and consular service for the present fiscal year, instructions were issued to the representatives of the United States at Bolivia, Ecuador, and Colombia, and to the consular officers for whom no appropriation had been made, to close their respective legations and consulates, and cease from the performance of their duties; and in like manner steps were immediately taken to substitute chargés d'affaires

for ministers resident in Portugal, Denmark, Greece, Switzerland, and Paraguay.

While thoroughly impressed with the wisdom of sound economy in the foreign service as in other branches of the Government, I cannot escape the conclusion that in some instances the withholding of appropriations will prove an expensive economy, and that the small retrenchment secured by a change of grade in certain diplomatic posts is not an adequate consideration for the loss of influence and importance which will attend our foreign representatives under this reduction. I am of the opinion that a re-examination of the subject will cause a change in some instances in the conclusions reached on these subjects at the last session of Congress.

The Court of Commissioners of Alabama Claims, whose functions were continued by an act of the last session of Congress until the 1st day of January, 1877, has carried on its labors with diligence and general satisfaction. By a report from the clerk of the court, transmitted herewith, bearing date November 14, 1876, it appears that within the time now allowed by law the court will have disposed of all the claims presented for adjudication. This report also contains a statement of the general results of the labors of the court to the date thereof. It is a cause of satisfaction that the method adopted for the satisfaction of the classes of claims submitted to the court, which are of long standing and justly entitled to early consideration, should have proved successful and acceptable.

It is with satisfaction that I am enabled to state that the work of the joint commission for determining the boundary-line between the United States and British possessions from the northwest angle of the Lake of the Woods to the Rocky Mountains, commenced in 1872, has been completed. The final agreements of the commissioners, with the maps, have been duly signed, and the work of the commission is complete.

The fixing of the boundary upon the Pacific coast by the protocol of March 10, 1873, pursuant to the award of the Emperor of Germany by Article XXXIV of the treaty of Washington, with the termination of the work of this commission, adjusts and fixes the entire boundary between the United States and the British possessions, except as to the portion of territory ceded by Russia to the United States under the treaty of 1867. The work intrusted to the commissioner and the officers of the Army attached to the commission has been well and satisfactorily performed. The original of the final agreement of the commissioners, signed upon the 29th of May, 1876, with the original "list of astronomical stations observed," the original official "list of monuments marking the international boundary-line," and the maps, records, and general reports relating to the commission, have been deposited in the Department of State. The official report of the commissioner on the part of the United States, with the report of the chief astronomer of the United States, will be submitted to Congress within a short time.

I reserve for a separate communication to Congress a statement of the condition of the questions which lately arose with Great Britain respecting the surrender of fugitive criminals under the treaty of 1842.

The Ottoman government gave notice, under date of January 15, 1874, of its desire to terminate the treaty of 1862, concerning commerce and navigation, pursuant to the provisions of the twenty-second article thereof. Under this notice the treaty terminated upon the 5th day of June, 1876. That government has invited negotiations toward the conclusion of a new treaty.

By the act of Congress of March 23, 1874, the President was authorized, when he should receive satisfactory information that the Ottoman government or that of Egypt had organized new tribunals likely to secure to citizens of the United States the same impartial justice enjoyed under the exercise of judicial functions by diplomatic and consular officers of the United States, to suspend the operation of the act of June 22, 1860, and to accept for citizens of the United States the jurisdiction of the new tribunals. Satisfactory information having been received of the organization of such new tribunals in Egypt, I caused a proclamation to be issued upon the 27th of March last, suspending the operation of the act of June 22, 1860, in Egypt, according to the provisions of the act. A copy of the proclamation accompanies this message. The United States has united with the other powers in the organization of these courts. It is hoped that the jurisdictional questions which have arisen may be readily adjusted, and that this advance in judicial reform may be hindered by no obstacles.

The necessary legislation to carry into effect the convention respecting commercial reciprocity concluded with the Hawaiian Islands in 1875 having been had, the proclamation to carry into effect the convention as provided by the act approved August 15, 1876, was duly issued upon the 9th day of September last. A copy thereof accompanies this message.

The commotions which have been prevalent in Mexico for some time past, and which unhappily seem to be not yet wholly quieted, have led to complaints of citizens of the United States of injuries by persons in authority. It is hoped, however, that these will ultimately be adjusted to the satisfaction of both governments. The frontier of the United States in that quarter has not been exempt from acts of violence by citizens of one republic on those of the other. The frequency of these is supposed to be increased and their adjustment made more difficult by the considerable changes in the course of the lower part of the Rio Grande River, which river is a part of the boundary between the two countries. These changes have placed on either side of that river portions of land which by existing conventions belong to the jurisdiction of the government on the opposite side of the river. The subject of adjustment of this cause of difficulty is under consideration between the two republics.

The government of the United States of Colombia has paid the award in the case of the steamer Montijo, seized by authorities of that government some years since, and the amount has been transferred to the claimants.

It is with satisfaction that I am able to announce that the Joint Commission for the adjustment of claims between the United States and Mexico, under the convention of 1868, the duration of which has been several times extended, has brought its labors to a close. From the report of the agent of the United States, which accompanies the papers transmitted herewith, it will be seen that within the time limited by the commission one thousand and seventeen claims on the part of citizens of the United States against Mexico were referred to the commission. Of these claims, eight hundred and thirty-one were dismissed or disallowed, and in one hundred and eighty-six cases awards were made in favor of the claimants against the Mexican Republic, amounting in the aggregate to four million one hundred and twenty-five thousand six hundred and twenty-two dollars and twenty cents. Within the same period nine hundred and ninety-eight claims on the part of citizens of the Mexican Republic against the United States were referred to the commission. Of these claims, eight hundred and thirty-one were dismissed or disallowed; and in one hundred and sixty-seven cases awards were made in favor of the claimants against the United States, amounting in the aggregate to one hundred and fifty thousand four hundred and ninety-eight dollars and forty-one cents.

By the terms of the convention the amount of these awards is to be deducted from the amount awarded in favor of our citizens against Mexico, and the balance only to be paid by Mexico to the United States, leaving the United States to make provision for this proportion of the awards in favor of its own citizens.

I invite your attention to the legislation which will be necessary to provide for the payment.

In this connection I am pleased to be able to express the acknowledgments due to Sir Edward Thornton, the umpire of the commission, who has given to the consideration of the large number of claims submitted to him much time, unwearied patience, and that firmness and intelligence which are well known to belong to the accomplished representative of Great Britain, and which are likewise recognized by the representative in this country of the republic of Mexico.

Monthly payments of a very small part of the amount due by the government of Venezuela to citizens of the United States on account of claims of the latter against that government continue to be made with reasonable punctuality. That government has proposed to change the system which it has hitherto pursued in this respect, by issuing bonds for part of the amount of the several claims. The proposition, however, could not, it is supposed, properly be accepted, at least without the consent of the holders of certificates of the indebtedness of Vene-

zuela. These are so much dispersed that it would be difficult, if not impossible, to ascertain their disposition on the subject.

In former messages I have called the attention of Congress to the necessity of legislation with regard to fraudulent naturalization and to the subject of expatriation and the election of nationality.

The numbers of persons of foreign birth seeking a home in the United States, the ease and facility with which the honest emigrant may after the lapse of a reasonable time become possessed of all the privileges of citizenship of the United States, and the frequent occasions which induce such adopted citizens to return to the country of their birth, render the subject of naturalization and the safeguards which experience has proved necessary for the protection of the honest naturalized citizen of paramount importance. The very simplicity in the requirements of law on this question affords opportunity for fraud, and the want of uniformity in the proceedings and records of the various courts, and in the forms of the certificates of naturalization issued, affords a constant source of difficulty.

I suggest no additional requirements to the acquisition of citizenship beyond those now existing, but I invite the earnest attention of Congress to the necessity and wisdom of some provisions regarding uniformity in the records and certificates, and providing against the frauds which frequently take place, and for the vacating of a record of naturalization obtained in fraud.

These provisions are needed in aid and for the protection of the honest citizen of foreign birth, and for the want of which he is made to suffer not infrequently. The United States has insisted upon the right of expatriation, and has obtained after a long struggle an admission of the principle contended for by acquiescence therein on the part of many foreign powers and by the conclusion of treaties on that subject. It is, however, but justice to the government to which such naturalized citizens have formerly owed allegiance, as well as to the United States, that certain fixed and definite rules should be adopted governing such cases and providing how expatriation may be accomplished.

While emigrants in large numbers become citizens of the United States, it is also true that persons, both native-born and naturalized, once citizens of the United States either by formal acts or as the effect of a series of facts and circumstances, abandon their citizenship and cease to be entitled to the protection of the United States, but continue on convenient occasions to assert a claim to protection in the absence of provisions on these questions.

And in this connection I again invite your attention to the necessity of legislation concerning the marriages of American citizens contracted abroad, and concerning the status of American women who may marry foreigners, and of children born of American parents in a foreign country.

The delicate and complicated questions continually occurring with reference to naturalization, expatriation, and the status of such persons

as I have above referred to, induce me to earnestly direct your attention again to these subjects.

In like manner, I repeat my recommendation that some means be provided for the hearing and determination of the just and subsisting claims of aliens upon the Government of the United States within a reasonable limitation, and of such as may hereafter arise. While, by existing provisions of law, the Court of Claims may in certain cases be resorted to by an alien claimant, the absence of any general provisions governing all such cases, and the want of a tribunal skilled in the disposition of such cases upon recognized fixed and settled principles, either provides no remedy in many deserving cases or compels a consideration of such claims by Congress or the executive department of the Government.

It is believed that other governments are in advance of the United States upon this question, and that the practice now adopted is entirely unsatisfactory.

Congress by an act approved the 3d day of March, 1875, authorized the inhabitants of the Territory of Colorado to form a State government, with the name of the State of Colorado, and therein provided for the admission of said State, when formed, into the Union, upon an equal footing with the original States.

A constitution having been adopted and ratified by the people of that State and the acting governor having certified to me the facts as provided by said act, together with a copy of such constitution and ordinances as provided for in the said act, and the provisions of the said act of Congress having been duly complied with, I issued a proclamation upon the 1st of August, 1876, a copy of which is hereto annexed.

The report of the Secretary of War shows that the Army has been actively employed during the year in subduing, at the request of the Indian Bureau, certain wild bands of the Sioux Indian nation and in preserving the peace at the South during the election. The commission constituted under the act of July 24, 1876, to consider and report on the "whole subject of the reform and re-organization of the Army" met in August last, and has collected a large mass of statistics and opinions bearing on the subject before it. These are now under consideration and their report is progressing. I am advised, though, by the president of the commission that it will be impracticable to comply with the clause of the act requiring the report to be presented, through me, to Congress on the first day of this session, as there has not yet been time for that mature deliberation which the importance of the subject demands. Therefore, I ask that the time of making the report be extended to the 29th day of January, 1877.

In accordance with the resolution of August 15, 1876, the Army Regulations prepared under the act of March 1, 1875, have not been promulgated, but are held until after the report of the above-mentioned commission shall have been received and acted on.

By the act of August 15, 1876, the cavalry force of the Army was increased by 2,500 men, with the proviso that they should be discharged on the expiration of hostilities. Under this authority, the cavalry regiments have been strengthened, and a portion of them are now in the field pursuing the remnants of the Indians with whom they have been engaged during the summer.

The estimates of the War Department are made up on the basis of the number of men authorized by law, and their requirements, as shown by years of experience; and also with the purpose on the part of the bureau officers to provide for all contingencies that may arise during the time for which the estimates are made. Exclusive of engineer estimates, (presented in accordance with acts of Congress calling for surveys and estimates for improvements at various localities,) the estimates now presented are about six millions in excess of the appropriations for the years 1874–'75 and 1875–'76. This increase is asked in order to provide for the increased cavalry force, (should their services be necessary,) to prosecute, economically, work upon important public buildings, to provide for armament of fortifications and manufacture of small-arms, and to replenish the working stock in the supply departments. The appropriations for these last named have for the past few years been so limited, that the accumulations in store will be entirely exhausted during the present year, and it will be necessary to at once begin to replenish them.

I invite your special attention to the following recommendations of the Secretary of War:

First. That the claims under the act of July 4, 1864, for supplies taken by the Army during the war be removed from the offices of the Quartermaster and Commissary Generals and transferred to the Southern Claims Commission. These claims are of precisely similar nature to those now before the Southern Claims Commission, and the War Department bureaus have not the clerical force for their examination nor proper machinery for investigating the loyalty of the claimants.

Second. That Congress sanction the scheme of an annuity-fund for the benefit of the families of deceased officers; and that it also provide for the permanent organization of the Signal Service; both of which were recommended in my last annual message.

Third. That the manufacturing operations of the Ordnance Department be concentrated at three arsenals and an armory, and that the remaining arsenals be sold, and the proceeds applied to this object by the Ordnance Department.

The appropriations for river and harbor improvements for the current year were $5,015,000. With my approval, the Secretary of War directed that of this amount $2,000,000 should be expended, and no new work should be begun and none prosecuted which were not of national importance. Subsequently this amount was increased to $2,237,600, and the works are now progressing on this basis.

The improvement of the South Pass of the Mississippi River, under James B. Eads and his associates, is progressing favorably. At the present time there is a channel of twenty and three-tenths (20.3) feet in depth between the jetties at the mouth of the pass, and eighteen and one-half (18½) feet at the head of the pass. Neither channel, however, has the width required before payments can be made by the United States. A commission of engineer officers is now examining these works, and their reports will be presented as soon as received.

The report of the Secretary of the Navy shows that branch of the service to be in condition as effective as it is possible to keep it with the means and authority given the Department. It is, of course, not possible to rival the costly and progressive establishments of great European powers with the old material of our Navy, to which no increase has been authorized since the war, except the eight small cruisers built to supply the place of others which had gone to decay. Yet the most has been done that was possible with the means at command; and by substantially rebuilding some of our old ships with durable material, and completely repairing and refitting our monitor fleet, the Navy has been gradually so brought up that, though it does not maintain its relative position among the progressive navies of the world, it is now in a condition more powerful and effective than it ever has been in time of peace.

The complete repairs of our five heavy iron-clads are only delayed on account of the inadequacy of the appropriations made last year for the working bureaus of the Department, which were actually less in amount than those made before the war, notwithstanding the greatly enhanced price of labor and materials and the increase in the cost of the naval service, growing out of the universal use and great expense of steam-machinery. The money necessary for these repairs should be provided at once, that they may be completed without further unnecessary delay and expense.

When this is done, all the strength that there is in our Navy will be developed and useful to its full capacity, and it will be powerful for purposes of defense, and also for offensive action, should the necessity for that arise within a reasonable distance from our shores.

The fact that our Navy is not more modern and powerful than it is has been made a cause of complaint against the Secretary of the Navy, by persons who at the same time criticise and complain of his endeavors to bring the Navy that we have to its best and most efficient condition; but the good sense of the country will understand that it is really due to his practical action that we have at this time any effective naval force at command.

The report of the Postmaster-General shows the excess of expenditures (excluding expenditures on account of previous years) over receipts for the fiscal year ended June 30, 1876, to be $4,151,988.66.

Estimated expenditures for the fiscal year ending June 30, 1878, are $36,723,432.43.

Estimated revenue for same period is $30,645,165, leaving estimated excess of expenditure, to be appropriated as a deficiency, of $6,078,267.43.

The Postmaster-General, like his predecessor, is convinced that a change in the basis of adjusting the salaries of postmasters of the fourth class is necessary for the good of the service, as well as for the interests of the Government, and urgently recommends that the compensation of the class of postmasters above mentioned be based upon the business of their respective offices, as ascertained from the sworn returns to the Auditor of stamps canceled.

A few postmasters in the Southern States have expressed great apprehension of their personal safety on account of their connection with the postal service, and have specially requested that their reports of apprehended danger should not be made public lest it should result in the loss of their lives. But no positive testimony of interference has been submitted, except in the case of a mail-messenger at Spartanburgh, in South Carolina, who reported that he had been violently driven away while in charge of the mails, on account of his political affiliations. An assistant superintendent of the railway mail-service investigated this case, and reported that the messenger had disappeared from his post, leaving his work to be performed by a substitute. The Postmaster-General thinks this case is sufficiently suggestive to justify him in recommending that a more severe punishment should be provided for the offense of assaulting any person in charge of the mails, or of retarding or otherwise obstructing them by threats of personal injury.

"A very gratifying result is presented in the fact that the deficiency of this Department during the last fiscal year was reduced to $4,081,790.18, as against $6,169,938.88 of the preceding year. The difference can be traced to the large increase in its ordinary receipts (which greatly exceed the estimates therefor) and a slight decrease in its expenditures."

The ordinary *receipts* of the Post-Office Department for the past seven fiscal years have increased at an average of over 8 per cent. per annum, while the increase of *expenditures* for the same period has been but about 5.50 per cent. per annum, and the *decrease* of *deficiency* in the revenues has been at the rate of nearly 2 per cent. per annum.

The report of the Commissioner of Agriculture accompanying this message will be found one of great interest, marking, as it does, the great progress of the last century in the variety of products of the soil, increased knowledge and skill in the labor of producing, saving, and manipulating the same to prepare them for the use of man; in the improvements in machinery to aid the agriculturist in his labors, and in a knowledge of those scientific subjects necessary to a thorough system of economy in agricultural production, namely, chemistry, botany, entomology, &c. A study of this report by those interested in agriculture and deriving their support from it will find it of value, in pointing out those articles which are raised in greater quantity than the needs of the world require, and must sell, therefore, for less than the cost of production, and those which command a profit over cost of production because there is not an over-production.

I call special attention to the need of the Department for a new gallery for the reception of the exhibits returned from the Centennial Exhibition, including the exhibits donated by very many foreign nations; and to the recommendations of the Commissioner of Agriculture generally.

The reports of the District Commissioners and the board of health are just received—too late to read them and to make recommendations thereon—and are herewith submitted.

The International Exhibition held in Philadelphia this year, in commemoration of the one hundredth anniversary of American independence, has proven a great success, and will, no doubt, be of enduring advantage to the country. It has shown the great progress in the arts, sciences, and mechanical skill made in a single century, and demonstrated that we are but little behind older nations in any one branch, while in some we scarcely have a rival. It has served, too, not only to bring peoples and products of skill and labor from all parts of the world together, but in bringing together people from all sections of our own country, which must prove a great benefit in the information imparted and pride of country engendered.

It has been suggested by scientists interested in and connected with the Smithsonian Institution, in a communication herewith, that the Government exhibit be removed to the capital and a suitable building be erected or purchased for its accommodation as a permanent exhibit. I earnestly recommend this, and believing that Congress would second this view, I directed that all Government exhibits at the Centennial Exhibition should remain where they are, except such as might be injured by remaining in a building not intended as a protection in inclement weather, or such as may be wanted by the Department furnishing them, until the question of permanent exhibition is acted on.

Although the moneys appropriated by Congress to enable the participation of the several Executive Departments in the International Exhibition of 1876 were not sufficient to carry out the undertaking to the full extent at first contemplated, it gives me pleasure to refer to the very efficient and creditable manner in which the board appointed from these several Departments to provide an exhibition on the part of the Government have discharged their duties with the funds placed at their command. Without a precedent to guide them in the preparation of such a display, the success of their labors was amply attested by the sustained attention which the contents of the Government building attracted during the period of the Exhibition from both foreign and native visitors.

I am strongly impressed with the value of the collection made by the Government for the purposes of the Exhibition, illustrating, as it does, the mineral resources of the country, the statistical and practical evidences of our growth as a nation, and the uses of the mechanical arts and the applications of applied science in the administration of the affairs of Government.

Many nations have voluntarily contributed their exhibits to the United States to increase the interest in any permanent exhibition Congress may provide for. For this act of generosity they should receive the thanks of the people, and I respectfully suggest that a resolution of Congress to that effect be adopted.

The attention of Congress cannot be too earnestly called to the necessity of throwing some greater safeguard over the method of choosing and declaring the election of a President. Under the present system there seems to be no provided remedy for contesting the election in any one State. The remedy is partially, no doubt, in the enlightenment of electors. The compulsory support of the free school, and the disfranchisement of all who cannot read and write the English language—after a fixed probation—would meet my hearty approval. I would not make this apply, however, to those already voters, but I would to all becoming so after the expiration of the probation fixed upon. Foreigners coming to the country to become citizens, who are educated in their own language, should acquire the requisite knowledge of ours during the necessary residence to obtain naturalization. If they did not take interest enough in our language to acquire sufficient knowledge of it to enable them to study the institutions and laws of the country intelligently, I would not confer upon them the right to make such laws nor to select those who do.

I append to this message, for convenient reference, a synopsis of administrative events and of all recommendations to Congress made by me during the last seven years. Time may show some of these recommendations not to have been wisely conceived, but I believe the larger part will do no discredit to the Administration. One of these recommendations met with the united opposition of one political party in the Senate, and with a strong opposition from the other, namely, the treaty for the annexation of Santo Domingo to the United States, to which I will specially refer, maintaining, as I do, that if my views had been concurred in, the country would be in a more prosperous condition to-day, both politically and financially.

Santo Domingo is fertile, and upon its soil may be grown just those tropical products of which the United States use so much, and which are produced or prepared for market now by slave-labor almost exclusively; namely, sugar, coffee, dye-woods, mahogany, tropical fruits, tobacco, &c. About seventy-five per cent. of the exports of Cuba are consumed in the United States. A large percentage of the exports of Brazil also find the same market. These are paid for almost exclusively in coin, legislation, particularly in Cuba, being unfavorable to a mutual exchange of the products of each country. Flour shipped from the Mississippi River to Havana can pass by the very entrance to the city on its way to a port in Spain, there pay a duty fixed upon articles to be re-exported, transferred to a Spanish vessel and brought back almost to the point of starting, paying a second duty, and still leave a profit over what would be

received by direct shipment. All that is produced in Cuba could be produced in Santo Domingo. Being a part of the United States, commerce between the island and mainland would be free. There would be no export duties on her shipments nor import duties on those coming here. There would be no import duties upon the supplies, machinery, &c., going from the States. The effect that would have been produced upon Cuban commerce with these advantages to a rival, is observable at a glance. The Cuban question would have been settled long ago in favor of "free Cuba." Hundreds of American vessels would now be advantageously used in transporting the valuable woods, and other products of the soil of the island, to a market, and in carrying supplies and emigrants to it. The island is but sparsely settled, while it has an area sufficient for the profitable employment of several millions of people. The soil would have soon fallen into the hands of United States capitalists. The products are so valuable in commerce that emigration there would have been encouraged; the emancipated race of the South would have found there a congenial home where their civil rights would not be disputed, and where their labor would be so much sought after that the poorest among them could have found the means to go. Thus in cases of great oppression and cruelty, such as has been practiced upon them in many places within the last eleven years, whole communities would have sought refuge in Santo Domingo. I do not suppose the whole race would have gone, nor is it desirable that they should go. Their labor is desirable—indispensable almost—where they now are. But the possession of this territory would have left the negro "master of the situation" by enabling him to demand his rights at home on pain of finding them elsewhere.

I do not present these views now as a recommendation for a renewal of the subject of annexation, but I do refer to it to vindicate my previous action in regard to it.

With the present term of Congress my official life terminates. It is not probable that public affairs will ever again receive attention from me further than as a citizen of the republic, always taking a deep interest in the honor, integrity, and prosperity of the whole land.

U. S. GRANT.

EXECUTIVE MANSION, *December* 5, 1876.

RECOMMENDATIONS AND EVENTS.

FIRST ANNUAL MESSAGE, DECEMBER 6, 1869.

"I earnestly recommend to you, then, such legislation as will insure a gradual return to specie payments, and put an immediate stop to fluctuations in the value of currency."

Six and 5 per cent. United States bonds due, and coming due, "may be replaced by bonds bearing a rate of interest not exceeding 4½ per cent.;" and also suggesting the "propriety of redeeming currency at market-value at time law goes into effect, increasing the rate at which currency shall be bought and sold, from day to day, or week to week, at the same rate of interest as Government pays upon its bonds."

Renewal of tax on incomes, 3 per cent. for three years.

Advising "such legislation as will forever preclude the enslavement of the Chinese upon our soil, under the name of coolies, and also prevent American vessels from engaging in the transportation of coolies to any country tolerating the system." Recommending that the mission to China be raised to one of the first class. Total repeal of "tenure-of-office acts" earnestly recommended.

Indian policy.—Management of a few reservations of Indians given to Society of Friends, and selection of agents thrown upon them. For superintendents and Indian agents not on reservations, officers of the Army selected. As a substitute for old system, suggests the placing of all Indians on large reservations, giving them absolute protection there, and inducing them, as soon as they are fitted for it, to take their lands in severalty, and to set up territorial governments for their own protection.

Special attention of Congress called to recommendation of Postmaster-General for total abolition of franking privilege; and also to that of Secretary of War for repeal of act March 3, 1869, prohibiting promotions and appointments in staff corps of the Army.

SECOND MESSAGE, DECEMBER 5, 1870.

San Domingo.—Treaty for annexation of, rejected, and suggesting that, by joint resolution of Congress, the Executive be authorized to appoint a commission to negotiate a treaty for the acquisition of the island.

Tien-Tsin massacre.—France and North Germany invited to make an authorized suspension of hostilities in the East, and to act together for the future protection in China of the lives and properties of Americans and Europeans.

Ratifications of treaty with Great Britain for abolishing the mixed courts for suppression of *slave trade*, and of the *naturalization* convention between that country and the United States exchanged.

Boundary-line between the United States and British possessions discovered to be 4,700 feet south of true position of forty-ninth parallel, leaving Hudson's Bay Company at Pembina, within territory of United States. Joint commissioners of the two governments proposed to fix definitely the boundary-line.

Regrets that no conclusion has been reached for the adjustment of

Alabama claims, and recommends that Congress authorize appointment of a committee to take proof of amounts and ownership of claims, &c.

Anticipating that an attempt may possibly be made by Canadian authorities in the coming season to repeat unneighborly acts toward American fishermen, recommends that authority be conferred upon the Executive to suspend by proclamation operation of laws authorizing transit of goods, &c., in bond, across United States territory to Canada, and, should an extreme measure become necessary, the suspension of the operation of any laws whereby Canadian vessels are permitted to enter the waters of the United States.

Manifestation on part of Canada to exclude United States citizens from the *navigation* of St. Lawrence. It is hoped that Great Britain will see the justice of abandoning the narrow and inconsistent claim to which her Canadian provinces have urged her adherence.

Recommends a liberal policy toward American steamers plying between the Pacific States and China and Japan, and encouragement, even if it should be at some cost to the national Treasury, of *American ship-building.*

Recommends an appropriation for the construction of a building for the State Department; the transfer from State to Interior Department of all powers and duties in relation to the Territories, and from the Interior to the War Department the Pension Bureau, and the payment of naval pensions by one of the bureaus of Navy Department.

Congress should look to a policy which would place our *currency* at *par with gold* at no distant day.

Tax collected from the people reduced more than $80,000,000 per annum.

Suggests that revenue-stamps be dispensed by postmasters, and a tax on liquors and tobacco, and the imposition of duty only on luxuries.

Recommends an appropriation for a new War Department building, and a *reform in the entire civil service* of the country.

The experiment of making the management of Indian affairs a missionary work found to work most advantageously. Submits, as a question worthy of serious consideration, whether the residue of our national domain should not be wholly disposed of under the provisions of the homestead and pre-emption laws.

Land-grant subsidies.—"The United States should not loan their credit in aid of any enterprise undertaken by States or corporations, nor grant lands in any instance unless the projected work is of acknowledged national importance. I am strongly inclined to the opinion that it is inexpedient and unnecessary to bestow subsidies of either description; but, should Congress determine otherwise, I earnestly recommend that the rights of settlers and of the public be more effectually secured and protected by appropriate legislation."

Untrammeled ballot, "where every man entitled to cast a vote may do so, just once, at each election, without fear of molestation or proscription on account of his political faith, nativity, or color."

THIRD ANNUAL MESSAGE, DECEMBER 4, 1871.

"I recommend Congress at an early day to make the necessary provision for the tribunal at Geneva, and for the several commissioners on the part of the United States called for by the treaty."

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"I recommend the legislation necessary on the part of the United States to bring into operation the articles of the treaty relating to the

fisheries, and to the other matters touching the relations of the United States toward the British North American possessions, to become operative so soon as the proper legislation shall be had on the part of Great Britain and its possessions."

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"I have addressed a communication * * * to the governors of New York, Pennsylvania, Ohio, Indiana, Michigan, Illinois, and Wisconsin, urging upon the governments of those States respectively the necessary action on their part to carry into effect the object of the article of the treaty which contemplates the use of the canals, on either side, connected with the navigation of the lakes and rivers forming the boundary, on terms of equality, by the inhabitants of both countries."

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"I renew the recommendation for an appropriation for determining the true position of the forty-ninth parallel of latitude, where it forms the boundary between the United States and the British North American possessions, between the Lake of the Woods and the summit of the Rocky Mountains. The early action of Congress on this recommendation would put it in the power of the War Department to place a force in the field during the next summer."

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"The resumption of diplomatic relations between France and Germany has enabled me to give directions for the withdrawal of the protection extended to Germans in France by the diplomatic and consular representatives of the United States in that country."

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"The ratifications of the consular and naturalization conventions with the Austro-Hungarian Empire have been exchanged.

"The ratifications of the new treaty of commerce between the United States and Italy have been exchanged. The two powers have agreed in this treaty that private property at sea shall be exempt from capture in case of war between the two powers."

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"The Forty-first Congress, at its third session, made an appropriation for the organization of a mixed commission for adjudicating upon the claims of citizens of the United States against Spain growing out of the insurrection in Cuba. That commission has since been organized."

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"It has been made the agreeable duty of the United States to preside over a conference at Washington between the plenipotentiaries of Spain and the allied South American Republics, which has resulted in an armistice, with the reasonable assurance of a permanent peace.

"The intimate friendly relations which have so long existed between the United States and Russia continue undisturbed."

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"With Japan we continue to maintain intimate relations.

"Our minister at Peking instructed to endeavor to conclude a convention with Corea—Admiral Rodgers to accompany him. The party were attacked, and, after punishing the criminals, the expedition returned, not concluding the convention. Subject left for such action as Congress may see fit to take.

"The republic of Mexico has not yet repealed the very objectionable laws establishing what is known as the free zone," &c.

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"I recommend some action by Congress regarding the overdue installments under the award of the Venezuelan Claims Commission of 1866."

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"The ratification of an extradition treaty with Nicaragua has been exchanged."

Congratulation that Brazil has taken steps to abolish slavery.

Regrets that Spain has failed to carry out its promised reform in this direction.

Attention directed to the fact that citizens of the United States are large holders of slaves in foreign lands.

Recommends that Congress provide a remedy against the holding, owning, &c., of slaves by citizens of the United States.

Disturbed condition of affairs in the island of Cuba.

Recommends that an appropriation be made to support four American youths, to serve with our ministers in Japan and China, and liberal support to American lines of steamers now plying between San Francisco and Japan and China, and the Australian line.

Extent of reduction of national debt. Modification of tariff and revenue laws recommended.

"I recommend that all taxes from internal sources be abolished, except those collected from * * * liquors, tobacco, * * * and from stamps."

Suggestions, in view of a re-adjustment of the tariff.

Attention invited to subject of *moieties*.

Continued fluctuations in gold.

"If the question can be met as to how to give a fixed value to our currency, * * * a very desirable object will be gained."

Recommendations for filling vacancies in the staff corps of the Army.

The suggestions in report of Secretary of the Navy as to the necessity for increasing and improving the *materiel* of the Navy, and the plan recommended for reducing the *personnel* of the service to a peace standard, &c., deserve the thoughtful attention of Congress. "I also recommend that all promotions in the Navy above the rank of captain be by selection instead of by seniority."

Suggestions of Postmaster-General for improvements in his Department recommended to special attention.

"I recommend * * * plan for uniting the telegraphic system of the United States with the postal system."

Execution of act approved April 20, 1871, known as the Ku-Klux law, in South Carolina.

Suggestions in relation to polygamy in Utah.

"I recommend liberal appropriations to carry out the Indian peace-policy," * * * and granting a territorial government to Indians in Indian Territory.

"I renew my recommendation that the public lands be regarded as a heritage to our children," &c.

Attention invited to subject of compensation to heads of bureaus and officials holding positions of responsibility, &c.

The removal of disabilities imposed by the fourteenth amendment.

Organization of territorial government in District of Columbia—act of February 21, 1871. Liberal appropriations recommended.

Appropriation recommended for purchase of remainder of square in Chicago on which burned buildings stood, and for erection of new buildings.

Congressional action suggested for protection of immigrants.

Civil-service reform.

FOURTH ANNUAL MESSAGE, DECEMBER 2, 1872.

Alabama claims.—"The tribunal which convened at Geneva on the 14th September last, (1872,) awarded the sum of fifteen millions five hundred thousand dollars in gold as the indemnity to be paid by Great Britain for the satisfaction of all claims referred to its consideration."

Treaty of Washington, June 15, 1846, *United States and Great Britain boundary-line.*—"Construction of treaty of 15th June, 1846, defining the boundary-line between their respective territories, submitted to the arbitration and award of His Majesty the Emperor of Germany, who, on 21st of October last, (1872,) signed his award in writing to the effect that it should be drawn through the Haro Channel; which leaves us for the first time in the United States as a nation without a question of disputed boundary between our territory and the possessions of Great Britain on this continent."

Treaty of Washington, May 8, 1871, *relating to fisheries, &c.*—"In my last annual message I recommended the legislation necessary on the part of the United States to bring into operation the articles of the treaty of Washington of May 8, 1871, relating to the fisheries, and to other matters touching the relations of the United States toward the British North American possessions, to become operative so soon as the proper legislation should be had on the part of Great Britain and its possessions.

"This question has since been disposed of; the Imperial Parliament and the legislatures of the provincial governments have passed laws to carry the provisions of the treaty on the matters referred to into operation. I therefore recommend your early adoption of the legislation in the same direction necessary on the part of this Government."

Boundary-line, (between Lake of the Woods and Rocky Mountains,) United States and British possessions.—Recommends that the force be increased in order to the completion of the survey and determination of the boundary-line between the United States and the British possessions, between Lake of the Woods and the Rocky Mountains. "To this end I recommend a sufficient appropriation be made."

Depredations, Texan frontier.—"The commissioners appointed, pursuant to joint resolution of Congress, on the 7th of May last, (1872,) to inquire into the depredations upon the Texan frontier, have diligently made investigations in that quarter. Their researches were necessarily incomplete, partly on account of limited appropriation made by Congress. I recommend that a special appropriation be made to enable the commissioners on the part of the United States to return to their labors without delay."

Cuba.—"It is with regret that I have again to announce a continuance of the disturbed condition of the island of Cuba. * * * The parties stand apparently in the same relative attitude which they have occu pied for a long time past."

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"I cannot doubt that the continued maintenance of slavery in Cuba is among the strongest inducements to the continuance of this strife. A terrible wrong is the natural cause of a terrible evil. The abolition of slavery and the introduction of other reforms in the administration or government of Cuba could not fail to advance the restoration of peace and order."

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"In my last annual message I referred to this subject, and I again recommend such legislation as may be proper to denounce, and if not prevent, at least to discourage American citizens from holding or dealing in slaves."

Venezuela.—"It is with regret, however, I announce that the government of Venezuela has made no further payments on account of the awards under the convention of April 25, 1866. This subject is again recommended to the attention of Congress for such action as may be deemed proper."

Japan and China.—"Our treaty relations with Japan remain unchanged The embassy which visited this country during the year (1872) that is passing being unprovided with powers for the signing of a convention in this country, no conclusion in that direction was reached. In this connection, I renew my recommendation of one year ago, that, 'to give importance and to add to the efficiency of our diplomatic relations with Japan and China, and to further aid in retaining the good opinion of those peoples, and to secure to the United States its share of the commerce destined to flow between those nations and the balance of the commercial world, an appropriation be made to support at least four American youths in each of those countries, to serve as a part of the official families of our ministers there. Our representatives would not even then be placed upon an equality with the representatives of Great Britain and of some other powers. As now situated, our representatives in Japan and China have to depend, for interpreters and translators, upon natives of those countries, who know our language imperfectly, or procure for the occasion the services of employés in foreign business houses, or the interpreters to other foreign ministers.'"

I renew the recommendation made on a previous occasion, of the transfer to the Department of the Interior of all the powers and duties in relation to the Territories with which the Department of State is now charged by law or custom."

Appropriation recommended for the relief of citizens in distress abroad.—"Congress, from the beginning of the Government, has wisely made provision for the relief of distressed seamen in foreign countries; no similar provision, however, has hitherto been made for the relief of citizens in distress abroad, other than seamen. A similar authority, and an appropriation to carry it into effect, are recommended in the case of citizens of the United States destitute or sick under such circumstances."

War Department.—"The report of the Secretary of War, showing expenditures of the War Department for fiscal year ending June 30, 1871, and for fiscal year ending June 30, 1872, showing a reduction in favor of the last fiscal year of $427,834.62."

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"The attention of Congress will be called during its present session to various enterprises for the more certain and cheaper transportation of the constantly-increasing surplus of western and southern products to the Atlantic seaboard."

Navy Department.—"I recommend careful consideration by Congress of the recommendations made by the Secretary of the Navy."

Department of the Interior—Territories.—"I recommend a careful revision of the present laws of the Territory of Utah, and the enactment of such a law (the one proposed in Congress at its last session, or something similar to it) as will secure peace, the equality of all citizens before the law, and the ultimate extinguishment of polygamy."

Civil service.—Hopes that "Congress may reach a satisfactory solution of this question, and secure to the public service, for all time, a practical method of obtaining faithful and efficient officers and employés."

FIFTH ANNUAL MESSAGE, DECEMBER 1, 1873.

Geneva award.—"The money awarded to the United States by the tribunal of arbitration, at Geneva, was paid by Her Majesty's government

a few days in advance of the time when it would have become payable according to the terms of the treaty. In compliance with the provisions of the act of March 3, 1873, it was at once paid into the Treasury, and used to redeem, so far as it might, the public debt of the United States; and the amount so redeemed was invested in a five per cent. registered bond of the United States for fifteen million five hundred thousand dollars, which is now held by the Secretary of State, subject to the future disposition of Congress."

Alabama, Florida, and Shenandoah losses.—"I renew my recommendation, made at the opening of the last session of Congress, that a commission be created for the purpose of auditing and determining the amounts of the several 'direct losses growing out of the destruction of vessels and their cargoes' by the Alabama, the Florida, or the Shenandoah, after leaving Melbourne, for which the sufferers have received no equivalent or compensation, and of ascertaining the names of the persons entitled to receive compensation for the same, making the computations upon the basis indicated by the tribunal of arbitration at Geneva; and that payment of such losses be authorized to an extent not to exceed the awards of the tribunal at Geneva."

"By an act approved on the 14th day of February last, Congress made provision for completing, jointly with an officer or commissioner to be named by Her Britannic Majesty, the determination of so much of the boundary-line between the territory of the United States and the possessions of Great Britain as was left uncompleted by the commissioners appointed under the act of Congress of August 11, 1856. Under the provisions of this act the *northwest water-boundary of the United States* has been determined and marked in accordance with the award of the Emperor of Germany. A protocol and a copy of the map upon which the line was thus marked are contained in the papers submitted herewith."

"The *Ottoman government* and that of *Egypt* have latterly shown a disposition *to relieve foreign consuls of the judicial powers* which heretofore they have exercised in the Turkish dominions, by organizing other tribunals. As Congress, however, has by law provided for the discharge of judicial functions by consuls of the United States in that quarter under the treaty of 1830, I have not felt at liberty formally to accept the proposed change without the assent of Congress, whose decision upon the subject, at as early a period as may be convenient, is earnestly requested."

Protectorate for Santo Domingo.—"I transmit herewith for the consideration and determination of Congress an application of the republic of Santo Domingo to this Government to exercise a protectorate over that republic."

Expatriation.—"I invite Congress now to mark out and define when and how expatriation can be accomplished; to regulate by law the condition of American women marrying foreigners; to fix the status of children born in a foreign country of American parents residing more or less permanently abroad, and to make rules for determining such other kindred points as may seem best to Congress.

"I invite the earnest attention of Congress to the existing laws of the United States respecting expatriation and the election of nationality by individuals. Many citizens of the United States reside permanently abroad with their families. Under the provisions of the act approved February 10, 1855, the children of such persons are to be deemed and taken to be citizens of the United States, but the rights of citizenship

are not to descend to persons whose fathers never resided in the United States."

Virginius seizure.—"Pending negotiations between the United States and the government of Spain on the subject of this capture, I have authorized the Secretary of the Navy to put our Navy on a war footing, to the extent, at least, of the entire annual appropriation for that branch of the service, trusting to Congress and the public opinion of the American people to justify my action."

Constitutional amendments.—"Assuming from the action of the last Congress, in appointing a 'Committee on Privileges and Elections,' to prepare and report to this Congress a constitutional amendment to provide a better method of electing the President and Vice-President of the United States, and also from the necessity of such an amendment, that there will be submitted to the State legislatures, for ratification, such an improvement in our Constitution, I suggest two others for your consideration:

"First. To authorize the Executive to approve of so much of any measure passing the two houses of Congress as his judgment may dictate, without approving the whole, the disapproved portion, or portions, to be subjected to the same rules as now, to wit, to be referred back to the house in which the measure, or measures, originated, and if passed by a two-thirds vote of the two houses, then to become a law without the approval of the President. I would add to this a provision that there should be no legislation by Congress during the last twenty-four hours of its sitting, except upon vetoes, in order to give the Executive an opportunity to examine and approve or disapprove bills understandingly.

"Second. To provide, by amendment, that when an extra session of Congress is convened by Executive proclamation, legislation during the continuance of such extra session shall be confined to such subjects as the Executive may bring before it, from time to time, in writing.

"The advantages to be gained by these two amendments are too obvious for me to comment upon them. One session in each year is provided for by the Constitution, in which there are no restrictions as to the subjects of legislation by Congress. If more are required, it is always in the power of Congress, during their term of office, to provide for sessions at any time. The first of these amendments would protect the public against the many abuses and waste of public moneys which creep into appropriation bills, and other important measures passing during the expiring hours of Congress, to which, otherwise, due consideration cannot be given."

Specie payments: elastic currency.—"My own judgment is that, however much individuals may have suffered,* one long step has been taken toward specie payments; that we can never have permanent prosperity until a specie basis is reached; and that a specie basis cannot be reached and maintained until our exports, exclusive of gold, pay for our imports, interest due abroad, and other specie obligations, or so nearly so as to leave an appreciable accumulation of the precious metals in the country from the products of our mines.

"Elasticity in our monetary system, therefore, is the object to be attained first, and next to that, as far as possible, a prevention of the use of other people's money in stock and other species of speculation. To prevent the latter it seems to me that one great step would be taken by prohibiting the national banks from paying interest on deposits, by requiring them to hold their reserves in their own vaults, and by forcing

* Panic, 1873.

them into resumption, though it would only be in legal-tender notes. For this purpose I would suggest the establishment of clearing-houses for your consideration.

"To secure the former many plans have been suggested, most, if not all, of which look to me more like inflation on the one hand, or compelling the Government, on the other, to pay interest, without corresponding benefits, upon the surplus funds of the country during the seasons when otherwise unemployed.

"I submit for your consideration whether this difficulty might not be overcome by authorizing the Secretary of the Treasury to issue, at any time, to national banks of issue, any amount of their own notes below a fixed percentage of their issue, say forty per cent., upon the banks depositing with the Treasurer of the United States an amount of Government bonds equal to the amount of notes demanded, the banks to forfeit to the Government, say four per cent. of the interest accruing on the bonds so pledged during the time they remain with the Treasurer, as security for the increased circulation, the bonds so pledged to be redeemable by the banks at their pleasure, either in whole or in part, by returning their own bills for cancellation to an amount equal to the face of the bonds withdrawn. I would further suggest for your consideration the propriety of authorizing national banks to diminish their standing issue at pleasure, by returning for cancellation their own bills, and withdrawing so many United States bonds as are pledged for the bills returned."

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"In any modification of the present laws regulating national banks, as a further step toward preparing for resumption of specie payments, I invite your attention to a consideration of the propriety of exacting from them the retention, as a part of their reserve, either the whole or a part of the gold interest accruing upon the bonds pledged as security for their issue. I have not reflected enough on the bearing this might have in producing a scarcity of coin with which to pay duties on imports to give it my positive recommendation. But your attention is invited to the subject."

Inter-State canals with Government aid.—"There is one work, however, of a national character, in which the greater portion of the East and the West, the North and the South, are equally interested, to which I will invite your attention.

"The State of New York has a canal connecting Lake Erie with tide-water on the Hudson River. The State of Illinois has a similar work connecting Lake Michigan with navigable water on the Illinois River, thus making water-communication inland, between the East and the West and South. These great artificial water-courses are the property of the States through which they pass, and pay toll to those States. Would it not be wise statesmanship to pledge these States that if they will open these canals for the passage of large vessels the General Government will look after and keep in navigable condition the great public highways with which they connect, to wit, the overslaugh on the Hudson, the Saint Clair Flats, and the Illinois and Mississippi Rivers? This would be a national work; one of great value to the producers of the West and South in giving them cheap transportation for their produce to the seaboard and a market; and to the consumers in the East in giving them cheaper food, particularly of those articles of food which do not find a foreign market, and the prices of which, therefore, are not regulated by foreign demands. The advantages of such a work are too

obvious for argument. I submit the subject to you, therefore, without further comment."

Exploration of Amazon and Madeira Rivers.—"In attempting to regain our lost commerce and carrying-trade, I have heretofore called attention to the states south of us offering a field where much might be accomplished. To further this object I suggest that a small appropriation be made, accompanied with authority for the Secretary of the Navy to fit out a naval vessel to ascend the Amazon River to the mouth of the Madeira; thence to explore that river and its tributaries into Bolivia, and to report to Congress at its next session, or as soon as practicable, the accessibility of the country by water, its resources, and the population so reached. Such an exploration would cost but little; it can do no harm, and may result in establishing a trade of value to both nations."

"In further connection with the Treasury Department I would recommend *a revision and codification of the tariff laws*, and the opening of more mints for coining money, with authority *to coin for such nations as may apply.*"

"While inviting your general attention to all the *recommendations* made by the *Secretary of War*, there are two which I would especially invite you to consider: First, the importance of preparing for war in time of peace by providing *proper armament for our sea-coast defenses.* Proper armament is of vastly more importance than fortifications. The latter can be supplied very speedily for temporary purposes when needed; the former cannot. The second is the necessity of *re-opening promotion in the staff corps of the Army.* Particularly is this necessity felt in the Medical, Pay, and Ordnance Departments."

"I invite the favorable consideration of Congress to the suggestions and recommendations of the *Postmaster-General* for the extension of the *free-delivery system* in all cities having a population of not less than *ten thousand;* for the prepayment of postage on newspapers and other printed matter of the second class; for a uniform postage and limit of weight on miscellaneous matter; for adjusting the compensation of all postmasters not appointed by the President, by the old method of commissions on the actual receipts of the office, instead of the present mode of fixing the salary in advance upon special returns; and especially do I urge favorable action by Congress on the important recommendations of the Postmaster-General for the *establishment of United States postal savings depositories.*

"Your attention is also again called to a consideration of the question of *postal telegraphs*, and the arguments adduced in support thereof, in the hope that you may take such action in connection therewith as in your judgment will most contribute to the best interests of the country."

Utah.—"To prevent anarchy there, it is absolutely necessary that Congress provide the courts with some mode of obtaining jurors, and I recommend legislation to that end; and also that the probate courts of the Territory, now assuming to issue writs of injunction and *habeas corpus*, and to try criminal cases and questions as to land-titles, be denied all jurisdiction not possessed ordinarily by courts of that description."

Bankruptcy and fictitious claims.—"I recommend that so much of said act as provides for involuntary bankruptcy on account of the suspension of payment be repealed.

"Your careful attention is invited to the subject of *claims against the Government*, and to the facilities afforded by existing laws for their prosecution. Each of the Departments of State, Treasury, and War have demands for many millions of dollars upon their files, and they are rap-

idly accumulating. To these may be added those now pending before Congress, the Court of Claims, and the Southern Claims Commission, making in the aggregate an immense sum. Most of these grow out of the rebellion, and are intended to indemnify persons on both sides for their losses during the war; and not a few of them are fabricated and supported by false testimony. Projects are on foot, it is believed, to induce Congress to provide for new classes of claims, and to revive old ones through the repeal or modification of the statute of limitations, by which they are now barred. I presume these schemes, if proposed, will be received with little favor by Congress, and I recommend that persons having claims against the United States cognizable by any tribunal or Department thereof be required to present them at an early day, and that legislation be directed as far as practicable to the defeat of unfounded and unjust demands upon the Government; and I would suggest, as a means of preventing fraud, that witnesses be called upon to appear in person to testify before those tribunals having said claims before them for adjudication. Probably the largest saving to the national Treasury can be secured by timely legislation on these subjects of any of the economic measures that will be proposed."

Support of Indians east of Rocky Mountains.—"As a preparatory step for this consummation, I am now satisfied that a territorial form of government should be given them, which will secure the treaty-rights of the original settlers, and protect their homesteads from alienation for a period of twenty years."

Census.—"It is believed, however, that a regular census every five years would be of substantial benefit to the country, inasmuch as our growth hitherto has been so rapid that the results of the decennial census are necessarily unreliable as a basis of estimates for the latter years of a decennial period."

Colorado, and irrigation from eastern slope of Rocky Mountains to Missouri River.—"I would recommend for your favorable consideration the passage of an enabling act for the *admittance of Colorado* as a State in the Union. It possesses all the elements of a prosperous State, agricultural and mineral, and, I believe, has a population now to justify such admission. In connection with this I would also recommend the encouragement of a canal for purposes of irrigation from the eastern slope of the Rocky Mountains to the Missouri River. As a rule, I am opposed to further donations of public lands for internal improvements, owned and controlled by private corporations, but in this instance I would make an exception."

Civil-service reform.—"In three successive messages to Congress I have called attention to the subject of 'civil-service reform.'

"Action has been taken so far as to authorize the appointment of a board to devise rules governing methods of making appointments and promotions, but there never has been any action making these rules, or any rules, binding, or even entitled to observance where persons desire the appointment of a friend, or the removal of an official who may be disagreeable to them.

"To have any rules effective they must have the acquiescence of Congress as well as of the Executive. I commend, therefore, the subject to your attention, and suggest that a special committee of Congress might confer with the civil-service board during the present session for the purpose of devising such rules as can be maintained, and which will secure the service of honest and capable officials, and which will also protect them in a degree of independence while in office.

"Proper rules will protect Congress, as well as the Executive, from

much needless persecution, and will prove of great value to the public at large."

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"I renew my previous recommendation to Congress for *general amnesty.* The number engaged in the late rebellion yet laboring under disabilities is very small, but enough to keep up a constant irritation. No possible danger can accrue to the Government by restoring them to eligibility to hold office.

"I suggest for your consideration the *enactment of a law to better secure the civil rights* which freedom should secure, but has not effectually secured, *to the enfranchised slave.*"

SIXTH ANNUAL MESSAGE, DECEMBER 7, 1874.

Resumption of specie payments.—"In view of the pledges of the American Congress when our present legal-tender system was adopted, and debt contracted, there should be no delay—certainly no unnecessary delay—in fixing, by legislation, a method by which we will return to specie. To the accomplishment of this end I invite your special attention. I believe firmly that there can be no prosperous and permanent revival of business and industries until a policy is adopted —with legislation to carry it out—looking to a return to a specie basis. It is easy to conceive that the debtor and speculative classes may think it of value to them to make so-called money abundant until they can throw a portion of their burdens upon others. But even these, I believe, would be disappointed in the result if a course should be pursued which will keep in doubt the value of the legal-tender medium of exchange. A revival of productive industry is needed by all classes; by none more than the holders of property, of whatever sort, with debts to liquidate from realization upon its sale. But admitting that these two classes of citizens are to be benefited by expansion, would it be honest to give it? Would not the general loss be too great to justify such relief? Would it not be just as honest and prudent to authorize each debtor to issue his own legal-tenders to the extent of his liabilities? Than to do this would it not be safer—for fear of overissues by unscrupulous creditors—to say that all debt obligations are obliterated in the United States, and now we commence anew, each possessing all he has at the time free from incumbrance? These propositions are too absurd to be entertained for a moment by thinking or honest people. Yet every delay in preparation for final resumption partakes of this dishonesty, and is only less in degree as the hope is held out that a convenient season will at last arrive for the good work of redeeming our pledges to commence. It will never come, in my opinion, except by positive action by Congress, or by national disasters which will destroy, for a time at least, the credit of the individual and the state at large. A sound currency might be reached by total bankruptcy and discredit of the integrity of the nation and of individuals. I believe it is in the power of Congress at this session to devise such legislation as will renew confidence, revive all the industries, start us on a career of prosperity to last for many years, and to save the credit of the nation and of the people. Steps toward the return to a specie basis are the great requisites to this devoutly to be sought for end. There are others which I may touch upon hereafter."

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"It is the duty of Congress to devise the method of correcting the evils which are acknowledged to exist, and not mine. But I will venture to

suggest two or three things which seem to me as absolutely necessary to a return to specie payments, the first great requisite in a return to prosperity. The legal-tender clause to the law authorizing the issue of currency by the National Government should be repealed, to take effect as to all contracts entered into after a day fixed in the repealing act; not to apply, however, to payments of salaries by Government, or for other expenditures now provided by law to be paid in currency in the interval pending between repeal and final resumption. Provision should be made by which the Secretary of the Treasury can obtain gold as it may become necessary from time to time from the date when specie redemption commences. To this might and should be added a revenue sufficiently in excess of expenses to insure an accumulation of gold in the Treasury to sustain permanent redemption.

"I commend this subject to your careful consideration, believing that a favorable solution is attainable, and if reached by this Congress that the present and future generations will ever gratefully remember it as their deliverer from a thralldom of evil and disgrace.

"With resumption, free banking may be authorized with safety, giving the same full protection to bill-holders which they have under existing laws. Indeed, I would regard free banking as essential. It would give proper elasticity to the currency. As more currency should be required for the transaction of legitimate business, new banks would be started, and, in turn, banks would wind up their business when it was found that there was a superabundance of currency. The experience and judgment of the people can best decide just how much currency is required for the transaction of the business of the country. It is unsafe to leave the settlement of this question to Congress, the Secretary of the Treasury, or the Executive. Congress should make the regulation under which banks may exist, but should not make banking a monopoly by limiting the amount of redeemable paper currency that shall be authorized. Such importance do I attach to this subject, and so earnestly do I commend it to your attention, that I give it prominence by introducing it at the beginning of this message."

Chinese immigration.—"In connection with this subject I call the attention of Congress to a generally-conceded fact—that the great proportion of the Chinese immigrants who come to our shores do not come voluntarily to make their homes with us and their labor productive of general prosperity, but come under contracts with headmen who own them almost absolutely. In a worse form does this apply to Chinese women. Hardly a perceptible percentage of them perform any honorable labor, but they are brought for shameful purposes, to the disgrace of the communities where settled and to the great demoralization of the youth of those localities. If this evil practice can be legislated against, it will be my pleasure as well as duty to enforce any regulation to secure so desirable an end."

Japanese indemnity fund.—"I submit the propriety of applying the income of a part if not of the whole of this fund to the education in the Japanese language of a number of young men to be under obligations to serve the Government for a specified time as interpreters at the legation and the consulates in Japan. A limited number of Japanese youths might at the same time be educated in our own vernacular, and mutual benefits would result to both governments. The importance of having our own citizens, competent, and familiar with the language of Japan, to act as interpreters and in other capacities connected with the legation and the consulates in that country, cannot readily be overestimated."

Claims of aliens against the United States.—"In this connection, I renew

my recommendation, made at the opening of the last session of Congress, that a special court be created to hear and determine all claims of aliens against the United States arising from acts committed against their persons or property during the insurrection. It appears equitable that opportunity should be offered to citizens of other states to present their claims, as well as to those British subjects whose claims were not admissible under the late commission, to the early decision of some competent tribunal. To this end, I recommend the necessary legislation to organize a court to dispose of all claims of aliens of the nature referred to, in an equitable and satisfactory manner, and to relieve Congress and the Departments from the consideration of these questions."

Boundary between the United States and British possessions.—"A copy of the report of the commissioner appointed under the act of March 19, 1872, for surveying and marking the boundary between the United States and the British possessions, from the Lake of the Woods to the summit of the Rocky Mountains, is herewith transmitted. I am happy to announce that the field-work of the commission has been completed, and the entire line, from the northwest corner of the Lake of the Woods to the summit of the Rocky Mountains, has been run and marked upon the surface of the earth. It is believed that the amount remaining unexpended of the appropriation made at the last session of Congress will be sufficient to complete the office-work. I recommend that the authority of Congress be given to the use of the unexpended balance of the appropriation in the completion of the work of the commission in making its report and preparing the necessary maps."

Expatriation and the election of nationality.—"I have again to call the attention of Congress to the unsatisfactory condition of the existing laws with reference to expatriation and the election of nationality. Formerly, amid conflicting opinions and decisions, it was difficult to exactly determine how far the doctrine of perpetual allegiance was applicable to citizens of the United States. Congress, by the act of the 27th of July, 1868, asserted the abstract right of expatriation as a fundamental principle of this Government. Notwithstanding such assertion, and the necessity of frequent application of the principle, no legislation has been had defining what acts or formalities shall work expatriation, or when a citizen shall be deemed to have renounced or to have lost his citizenship. The importance of such definition is obvious."

Fraudulent naturalization.—"Without placing any additional obstacles in the way or the obtainment of citizenship by the worthy and well-intentioned foreigner who comes in good faith to cast his lot with ours, I earnestly recommend further legislation to punish fraudulent naturalization and to secure the ready cancellation of the record of every naturalization made in fraud."

Means of increasing the revenue.—"The Secretary of the Treasury in his report favors legislation looking to an early return to specie payments, thus supporting views previously expressed in this message. He also recommends economy in appropriations; calls attention to the loss of revenue from repealing the tax on tea and coffee, without benefit to the consumer; recommends an increase of ten cents a gallon on whisky, and, further, that no modification be made in the banking and currency bill passed at the last session of Congress, unless modification should become necessary by reason of the adoption of measures for returning to specie payments. In these recommendations I cordially join.

"I would suggest to Congress the propriety of re-adjusting the tariff so as to increase the revenue, and, at the same time, decrease the number of articles upon which duties are levied. Those articles which enter

into our manufactures, and are not produced at home, it seems to me should be entered free. Those articles of manufacture which we produce a constituent part of, but do not produce the whole, that part which we do not produce should enter free also. I will instance fine wool, dyes, &c. These articles must be imported to form a part of the manufacture of the higher grades of woolen goods. Chemicals used as dyes, compounded in medicines, and used in various ways in manufactures, come under this class. The introduction, free of duty, of such wools as we do not produce would stimulate the manufacture of goods requiring the use of those we do produce, and, therefore, would be a benefit to home production. There are many articles entering into 'home manufactures' which we do not produce ourselves, the tariff upon which increases the cost of producing the manufactured article. All corrections in this regard are in the direction of bringing labor and capital in harmony with each other, and of supplying one of the elements of prosperity so much needed."

Treaties ratified.—"Since my last annual message the exchange has been made of the ratification of treaties of extradition with Belgium, Ecuador, Peru, and Salvador; also of a treaty of commerce and navigation with Peru, and one of commerce and consular privileges with Salvador; all of which have been duly proclaimed, as has also a declaration with Russia with reference to trade-marks."

Wants and necessities of the Army.—"All the recommendations of the Secretary of War I regard as judicious, and I especially commend to your attention the following: The consolidation of Government arsenals; the restoration of mileage to officers traveling under orders; the exemption of money received from the sale of subsistence stores from being covered into the Treasury; the use of appropriations for the purchase of subsistence stores without waiting for the beginning of the fiscal year for which the appropriation is made; for additional appropriations for the collection of torpedo material; for increased appropriations for the manufacture of arms; for relieving the various States from indebtedness for arms charged to them during the rebellion; for dropping officers from the rolls of the Army without trial for the offense of drawing pay more than once for the same period; for the discouragement of the plan to pay soldiers by checks; and for the establishment of a professorship of rhetoric and English literature at West Point. The reasons for these recommendations are obvious, and are set forth sufficiently in the reports attached. I also recommend that the status of the staff corps of the Army be fixed—where this has not already been done—so that promotions may be made and vacancies filled as they occur in each grade when reduced below the number to be fixed by law."

Certain operations of the Navy.—"Much has been accomplished during the year in aid of science and to increase the sum of general knowledge and further the interests of commerce and civilization. Extensive and much-needed soundings have been made for hydrographic purposes, and to fix the proper routes of ocean telegraphs. Further surveys of the great Isthmus have been undertaken and completed, and two vessels of the Navy are now employed, in conjunction with those of England, France, Germany, and Russia, in observations connected with the transit of Venus, so useful and interesting to the scientific world."

Education of the people essential to general prosperity.—"Education of the people entitled to exercise the right of franchise I regard essential to general prosperity everywhere, and especially so in republics, where birth, education, or previous condition does not enter into account in

giving suffrage. Next to the public school, the post-office is the great agent of education over our vast territory."

Unsettled condition of affairs in some of the Southern States.—"I regret to say that, with preparations for the late election, decided indications appeared in some localities in the Southern States of a determination, by acts of violence and intimidation, to deprive citizens of the freedom of the ballot, because of their political opinions. Bands of men, masked and armed, made their appearance; White Leagues and other societies were formed; large quantities of arms and ammunition were imported and distributed to these organizations; military drills, with menacing demonstrations, were held; and, with all these, murders enough were committed to spread terror among those whose political action was to be suppressed, if possible, by these intolerant and criminal proceedings. In some places colored laborers were compelled to vote according to the wishes of their employers, under threats of discharge if they acted otherwise; and there are too many instances in which, when these threats were disregarded, they were remorselessly executed by those who made them. I understand that the fifteenth amendment to the Constitution was made to prevent this and a like state of things, and the act of May 31, 1870, with amendments, was passed to enforce its provisions, the object of both being to guarantee to all citizens the right to vote and to protect them in the free enjoyment of that right. Enjoined by the Constitution 'to take care that the laws be faithfully executed,' and convinced by undoubted evidence that violations of said act had been committed, and that a wide-spread and flagrant disregard of it was contemplated, the proper officers were instructed to prosecute the offenders, and troops were stationed at convenient points to aid these officers, if necessary, in the performance of their official duties. Complaints are made of this interference by Federal authority; but if said amendment and act do not provide for such interference under the circumstances as above stated, then they are without meaning, force, or effect, and the whole scheme of colored enfranchisement is worse than mockery, and little better than a crime. Possibly Congress may find it due to truth and justice to ascertain, by means of a committee, whether the alleged wrongs to colored citizens for political purposes are real, or the reports thereof were manufactured for the occasion."

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"The whole subject of *Executive interference with the affairs of a State* is repugnant to public opinion, to the feeling of those who, from their official capacity, must be used in such interposition, and to him or those who must direct. Unless most clearly on the side of law, such interference becomes a crime; with the law to support it, it is condemned without a hearing. I desire, therefore, that all necessity for Executive direction in local affairs may become unnecessary and obsolete. I invite the attention, not of Congress, but of the people of the United States, to the causes and effects of these unhappy questions. Is there not a disposition on one side to magnify wrongs and outrages, and on the other side to belittle them or justify them? If public opinion could be directed to a correct survey of what is, and to rebuking wrong, and aiding the proper authorities in punishing it, a better state of feeling would be inculcated, and the sooner we would have that peace which would leave the States free indeed to regulate their own domestic affairs. I believe on the part of our citizens of the Southern States—the better part of them—there is a disposition to be law-abiding, and to do no violence either to individuals or to the laws existing. But do they do right in

ignoring the existence of violence and bloodshed in resistance to constituted authority? I sympathize with their prostrate condition, and would do all in my power to relieve them; acknowledging that in some instances they have had most trying governments to live under, and very oppressive ones in the way of taxation for nominal improvements, not giving benefits equal to the hardships imposed; but, can they proclaim themselves entirely irresponsible for this condition? They cannot. Violence has been rampant in some localities, and has either been justified or denied by those who could have prevented it. The theory is even raised that there is to be no further interference on the part of the General Government to protect citizens within a State where the State authorities fail to give protection. This is a great mistake. While I remain Executive all the laws of Congress, and the provisions of the Constitution, including the recent amendments added thereto, will be enforced with rigor, but with regret that they should have added one jot or tittle to Executive duties or powers. Let there be fairness in the discussion of Southern questions, the advocates of both, or all political parties, giving honest, truthful reports of occurrences, condemning the wrong and upholding the right, and soon all will be well. Under existing conditions the negro votes the republican ticket because he knows his friends are of that party. Many a good citizen votes the opposite, not because he agrees with the great principles of state which separate parties, but because, generally, he is opposed to negro rule. This is a most delusive cry. Treat the negro as a citizen and a voter—as he is and must remain—and soon parties will be divided, not on the color-line, but on principle. Then we shall have no complaint of sectional interference."

Increase of judicial districts.—"I respectfully suggest to Congress the propriety of increasing the number of judicial districts in the United States to eleven, the present number being nine, and the creation of two additional judgeships. The territory to be traversed by the circuit judges is so great, and the business of the courts so steadily increasing, that it is growing more and more impossible for them to keep up with the business requiring their attention. Whether this would involve the necessity of adding two more Justices of the Supreme Court to the present number I submit to the judgment of Congress."

Management of Indian affairs.—"I commend the recommendation of the Secretary for the extension of the homestead-laws to the Indians, and for some sort of territorial government for the Indian Territory. A great majority of the Indians occupying this Territory are believed yet to be incapable of maintaining their rights against the more civilized and enlightened white man. Any territorial form of government given them, therefore, should protect them in their homes and property for a period of at least twenty years, and before its final adoption should be ratified by a majority of those affected."

Pensions to survivors of war of 1812 *residing in Southern States.*—"The act of Congress providing the oath which pensioners must subscribe to before drawing their pension cuts off from this bounty a few survivors of the war of 1812 residing in the Southern States. I recommend the restoration of this bounty to all such. The number of persons whose names would thus be restored to the list of pensioners is not large. They are all old persons who could have taken no part in the rebellion, and the services for which they were awarded pensions were in defense of the whole country."

Civil service.—"The rules adopted to improve the civil service of the Government have been adhered to as closely as has been practicable with

the opposition with which they meet. The effect, I believe, has been beneficial on the whole, and has tended to the elevation of the service. But it is impracticable to maintain them without direct and positive support of Congress. Generally the support which this reform receives is from those who give it their support only to find fault when the rules are apparently departed from. Removals from office without preferring charges against parties removed are frequently cited as departures from the rules adopted, and the retention of those against whom charges are made by irresponsible persons, and without good grounds, is also often condemned as a violation of them. Under these circumstances, therefore, I announce that if Congress adjourns without positive legislation on the subject of 'civil-service reform,' I will regard such action as a disapproval of the system, and will abandon it, except so far as to require examinations for certain appointees, to determine their fitness. Competitive examinations will be abandoned."

District of Columbia.—"In my opinion the District of Columbia should be regarded as the grounds of the National Capital, in which the entire people are interested. I think the proportion of the expenses of the government and improvements to be borne by the General Government, the cities of Washington and Georgetown, and the county, should be carefully and equitably defined."

SEVENTH ANNUAL MESSAGE, DECEMBER 7, 1875.

Compulsory education by constitutional amendment.—"As the primary step, therefore, to our advancement in all that has marked our progress in the past century, I suggest for your earnest consideration, and most earnestly recommend it, that a constitutional amendment be submitted to the legislatures of the several States for ratification, making it the duty of each of the several States to establish and forever maintain free public schools adequate to the education of all the children in the rudimentary branches within their respective limits, irrespective of sex, color, birth-place, or religions; forbidding the teaching in said schools of religious, atheistic, or pagan tenets; and prohibiting the granting of any school-funds or school-taxes, or any part thereof, either by legislative, municipal, or other authority, for the benefit or in aid, directly or indirectly, of any religious sect or denomination, or in aid or for the benefit of any other object of any nature or kind whatever."

Taxation of church property.—"I would suggest the taxation of all property equally, whether church or corporation, exempting only the last resting-place of the dead, and, possibly, with proper restrictions, church-edifices."

Virginius indemnity.—"In March last an arrangement was made through Mr. Cushing, our minister in Madrid, with the Spanish government, for the payment by the latter to the United States of the sum of eighty thousand dollars in coin, for the purpose of the relief of the families or persons of the ship's company and certain passengers of the Virginius. This sum was to have been paid in three installments at two months each. It is due to the Spanish government that I should state that the payments were fully and spontaneously anticipated by that government, and that the whole amount was paid within but a few days more than two months from the date of the agreement, a copy of which is herewith transmitted. In pursuance of the terms of the adjustment, I have directed the distribution of the amount among the parties entitled thereto, including the ship's company, and such of the passengers as were American citi-

zens. Payments are made accordingly, on the application by the par ties entitled thereto."

Cuba.—"Recognition of its independence deemed impracticable, and accordance of belligerent rights regarded indefensible as a measure of right. Mediation and intervention of other nations apparently the only alternative to be invoked for the termination of strife."

Depredations by armed bands from Mexico on the people of Texas.—"The military force of this Government disposable for service in that quarter is quite inadequate to effectually guard the line, even at those points where the incursions are usually made. An experiment of an armed vessel on the Rio Grande for that purpose is on trial, and it is hoped that, if not thwarted by the shallowness of the river and other natural obstacles, it may materially contribute to the protection of the herdsmen of Texas."

Claims of aliens against the United States.—"I recommend that some suitable provision be made, by the creation of a special court or by conferring the necessary jurisdiction upon some appropriate tribunal, for the consideration and determination of the claims of aliens against the Government of the United States which have arisen within some reasonable limitation of time, or which may hereafter arise, excluding all claims barred by treaty-provisions or otherwise. It has been found impossible to give proper consideration to these claims by the Executive Departments of the Government. Such a tribunal would afford an opportunity to aliens other than British subjects to present their claims on account of acts committed against their persons or property during the rebellion, as also to those subjects of Great Britain whose claims, having arisen subsequent to the 9th day of April, 1865, could not be presented to th late commission organized pursuant to the provisions of the treaty of Washington."

Occupation of new State Department.—"In the month of July last the building erected for the Department of State was taken possession of and occupied by that Department. I am happy to announce that the archives and valuable papers of the Government in the custody of that Department are now safely deposited and properly cared for."

Treasury.—Partial repeal of legal-tender act, &c.—"A repeal of so much of the legal-tender act as makes these notes receivable for debts contracted after a day to be fixed in the act itself, say not later than the 1st of January, 1877.

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"Second, that the Secretary of the Treasury be authorized to *redeem*, say not to exceed two million ($2,000,000) dollars monthly of *legal-tender notes*, by *issuing in their stead a long bond, bearing interest at the rate of 3.65 per cent. per annum*, of denominations ranging from $50 up to $1,000 each. This would in time reduce the legal-tender notes to a volume that could be kept afloat without demanding a redemption in large sums suddenly.

"Third. That an additional power be given to the Secretary of the Treasury to *accumulate gold for final redemption*, either by increasing revenue, curtailing expenses, or both—it is preferable to do both; and I recommend that reduction of expenditures be made wherever it can be done without impairing Government obligations or crippling the due execption thereof. One measure for increasing the revenue—and the only one I think of—is the restoration of the duty on tea and coffee. These duties would add probably $18,000,000 to the present amount received from imports, and would in no way increase the prices paid for those articles by the consumers."

FOREIGN RELATIONS.

LIST OF PAPERS, WITH THEIR SUBJECTS.

PROCLAMATIONS.

No.		Date.	Subject.	Page.
		1876.		
1	Proclamation	Mar. 27	Tribunals in Egypt; suspending, in favor of the same, the act of March 23, 1874, in regard to matters cognizable by the minister, consuls, &c., of the United States in said dominions, and now embraced within the jurisdiction of said tribunals.	1
2	....do	May 25	American Centennial; making known the joint resolution of Congress recommending the people to assemble in their several counties or towns and to have read historical sketches of the same, &c.	2
3	....do	June 26	The same subject; inviting the people to a public thanksgiving.	3
4	....do	Sept. 9	Convention with the Hawaiian Islands; declaring that the convention has been duly ratified and proclaimed, and the necessary legislation passed to give effect to the same.	3

ARGENTINE REPUBLIC.

No.	From whom and to whom.	Date.	Subject.	Page.
		1875.		
5	Mr. Osborn to Mr. Fish	July 13	Boundary dispute between the Argentine Republic and Chili; note from the Argentine minister of foreign affairs concerning the protest of the Chilian minister against a line of steamboats, with land-grants to the company.	7
		1876.		
6	....do	Feb. 3	Boundary treaty between the Argentine Republic, Paraguay, and Brazil; basis of the same.	9
7	....do	Feb. 14	The same subject; further particulars	9
8	....do	July 8	Fourth of July; public demonstration and suspension of business on the occasion of the Centennial Anniversary of American Independence.	10

AUSTRIA-HUNGARY.

		1876.		
9	Mr. Orth to Mr. Fish	Jan. 21	Religious communities; bill presented by the government for the regulation thereof; debates on the same in the upper Reichsrath.	11
10	....do	Mar. 9	The same subject; the bill passed both houses and awaiting the signature of the Emperor; declaration of the hierarchy concerning the law.	12
11	Mr. Delaplaine to Mr. Fish	June 6	Termination of the sittings of the two delegations at Pesth; the military budgets of France, Russia, and Germany as compared with that of Austria-Hungary; satisfactory state of feeling between His Majesty and the delegations; speech of the chairman of the Hungarian delegation; estimates, allowances, &c.	13
12	The Emperor of Austria-Hungary to the President of the United States.	.....	Congratulations of the Emperor to the people of the United States on the occasion of their centennial jubilee.	15
13	The President of the United States to the Emperor of Austria-Hungary.	July 22	The same subject; acknowledging the congratulations of the Emperor.	15

BOLIVIA.

No.	From whom and to whom.	Date.	Subject.	Page.
		1875.		
14	Mr. Reynolds to Mr. Fish ...	Oct. 5	Right of asylum; United States minister refuses the same to Mr. Suariz; reasons for the refusal; particulars of the case.	17
15	Mr. Fish to Mr. Reynolds ...	Dec. 3	The same subject; practice of the United States Government in relation to granting asylums to citizens of other governments; Mr. Reynolds's course approved.	18
		1876.		
16	Mr. Reynolds to Mr. Fish ...	June 1	Success of the rebellion of the 4th of May; General Daza provisional President of Bolivia; indications pointing to the permanency of Daza's government.	19
17	.....do	Aug. 23	The same subject; public affairs the same as reported in the above.	20
18	.....do	Sept. 29	The same subject; triumphal entry of General Daza into La Paz; General Daza in complete possession of the government.	20

BRAZIL.

		1875.		
19	Mr. Fish to Mr. Partridge...	July 14	Humane and courteous conduct of Baron Ivanheimer, of the Brazilian navy, to Captain Roe, of the United States ship Lancaster; acknowledgment of the same by the Secretary of the Navy.	21
20	Mr. Purrington to Mr. Fish..	Nov. 30	Custom-house regulations at Rio de Janeiro and formal constructions placed upon them; correspondence concerning the same between Rear-Admiral Le Roy, United States Navy, Mr. Purrington, and the Brazilian minister of foreign affairs.	22
		1876.		
21	Mr. Partridge to Mr. Fish...	Apr. 20	Extraordinary law for the punishment of the subjects of foreign governments for crimes committed in countries beyond the jurisdiction of Brazil; the British government refuses to assent to the same; similar laws in other countries.	25
22	Mr. Fish to Mr. Partridge...	May 26	The same subject; the Government of the United States concurs in the decision of the British government.	26
23	Mr. Partridge to Mr. Fish...	May 21	Sugar-trade of Brazil; great falling off in the same; causes of the decline of the trade.	26
24	The Princess Imperial of Brazil to the President of the United States. (Telegram.)	July 4	Congratulations on the centenary of the Independence of the United States.	28
25	The President of the United States to the Princess Imperial of Brazil.	July 22	The same subject; acknowledges the congratulations.	28

CENTRAL AMERICAN STATES.

		1875.		
26	Mr. Williamson to Mr. Fish..	June 7	Synoptical report of the Central American States..	28
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PROCLAMATIONS.

No. 1.

By the President of the United States of America:

A PROCLAMATION.

Whereas, by the first section of an act entitled "An act to authorize the President to accept for citizens of the United States the jurisdiction of certain tribunals in the Ottoman dominions and Egypt, established, or to be established, under the authority of the Sublime Porte and of the government of Egypt," approved March 23, 1874, it was enacted as follows:

"That whenever the President of the United States shall receive satisfactory information that the Ottoman government, or that of Egypt, has organized other tribunals, on a basis likely to secure to citizens of the United States, in their dominions, the same impartial justice which they now enjoy there under the judicial functions exercised by the minister, consuls, and other functionaries of the United States, pursuant to the act of Congress approved the twenty-second of June, eighteen hundred and sixty, entitled 'An act to carry into effect provisions of the treaties between the United States, China, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, and for other purposes,' he is hereby authorized to suspend the operations of said acts as to the dominions in which such tribunals may be organized, so far as the jurisdiction of said tribunals may embrace matters now cognizable by the minister, consuls, or other functionaries of the United States in said dominions, and to notify the government of the Sublime Porte, or that of Egypt, or either of them, that the United States, during such suspension, will, as aforesaid, accept for their citizens the jurisdiction of the tribunals aforesaid over citizens of the United States which has heretofore been exercised by the minister, consuls, or other functionaries of the United States."

And whereas satisfactory information has been received by me that the government of Egypt has organized other tribunals on a basis likely to secure to citizens of the United States in the dominions subject to such government the impartial justice which they now enjoy there under the judicial functions exercised by the minister, consuls, or other functionaries of the United States, pursuant to the said act of Congress approved June 22, 1860:

Now, therefore, I, Ulysses S. Grant, President of the United States of America, by virtue of the power and authority conferred upon me by the said act, approved March 23, 1874, do hereby suspend during the pleasure of the President the operation of the said act approved June 22, 1860, as to the said dominions, subject to the government of Egypt in which such tribunals have been organized, so far as the jurisdiction of said tribunals may embrace matters now cognizable by the minister, consuls, or other functionaries of the United States in said dominions, except as to cases actually commenced before the date hereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this twenty-seventh day of March, in the year of our Lord one thousand eight hundred and [SEAL.] seventy-six, and of the Independence of the United States of America the one hundredth.

U. S. GRANT.

By the President:
HAMILTON FISH,
Secretary of State.

No. 2.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas a joint resolution of the Senate and House of Representatives of the United States was duly approved on the 13th day of March, last, which resolution is as follows:

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That it be, and is hereby, recommended by the Senate and House of Representatives to the people of the several States that they assemble in their several counties or towns on the approaching Centennial Anniversary of our National Independence, and that they cause to have delivered on such day an historical sketch of said county or town from its formation, and that a copy of said sketch may be filed, in print or manuscript, in the clerk's office of said county, and an additional copy, in print or manuscript, be filed in the office of the Librarian of Congress, to the intent that a complete record may thus be obtained of the progress of our institutions during the first centennial of their existence;"

And whereas it is deemed proper that such recommendation should be brought to the notice and knowledge of the people of the United States:

Now, therefore, I, ULYSSES S. GRANT, President of the United States, do hereby declare and make known the same, in the hope that the object of such resolution may meet the approval of the people of the United States, and that proper steps may be taken to carry the same into effect.

Given under my hand at the city of Washington, the twenty-fifth day of May, in the year of our Lord one thousand eight hundred [SEAL.] and seventy-six, and of the Independence of the United States the one hundredth.

U. S. GRANT.

By the President:
HAMILTON FISH,
Secretary of State.

No. 3.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

The Centennial Anniversary of the day on which the people of the United States declared their right to a separate and equal station among the powers of the earth seems to demand an exceptional observance.

The founders of the Government at its birth and in its feebleness invoked the blessings and the protection of a Divine Providence, and the thirteen colonies and three millions of people have expanded into a nation of strength and numbers, commanding the position which then was asserted, and for which fervent prayers were then offered.

It seems fitting that on the occurrence of the hundredth anniversary of our existence as a nation, a grateful acknowledgment should be made to Almighty God for the protection and the bounties which He has vouchsafed to our beloved country.

I, therefore, invite the good people of the United States, on the approaching fourth day of July, in addition to the usual observances with which they are accustomed to greet the return of the day, further, in such manner and at such time, as, in their respective localities and religious associations, may be most convenient, to mark its recurrence by some public religious and devout thanksgiving to Almighty God for the blessings which have been bestowed upon us as a nation during the century of our existence, and humbly to invoke a continuance of His favor and of His protection.

In witness whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this twenty-sixth day of June, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States of America the one hundredth.

[SEAL.]

U. S. GRANT.

By the President:

HAMILTON FISH,
Secretary of State.

No. 4.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas, by Article V of a Convention concluded at Washington upon the 30th day of January, 1875, between the United States of America and His Majesty the King of the Hawaiian Islands, it was provided as follows, viz:

"The present Convention shall take effect as soon as it shall have been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and shall have been ratified and duly proclaimed on the part of the Government of the United States, but not until a law to carry it into operation shall have been passed by the Congress of

the United States of America. Such assent having been given, and the ratifications of the Convention having been exchanged as provided in Article VI, the Convention shall remain in force for seven years from the date at which it may come into operation; and further, until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of seven years, or at any time thereafter."

And whereas such Convention has been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and has been ratified and duly proclaimed on the part of the United States, and a law to carry the same into operation has been passed by the Congress of the United States, and the ratifications of the Convention have been exchanged as provided in Article VI thereof:

And whereas the Acting Secretary of State of the United States and His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington have recorded in a protocol a conference held by them at Washington on the ninth day of September, eighteen hundred and seventy-six, in the following language;

"Whereas it is provided by Article V of the Convention between the United States of America and His Majesty the King of the Hawaiian Islands concerning commercial reciprocity, signed at Washington on the 30th day of January, 1875, as follows:

"'ARTICLE V. The present Convention shall take effect as soon as it shall have been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and shall have been ratified and duly proclaimed on the part of the Government of the United States, but not until the law to carry it into operation shall have been passed by the Congress of the United States of America. Such assent having been given, and the ratifications of the Convention having been exchanged as provided in Article VI, the Convention shall remain in force for seven years from the date at which it may come into operation; and further, until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of seven years, or at any time thereafter;'

"And whereas the said Convention has been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and has been ratified and duly proclaimed on the part of the Government of the United States;

"And whereas an act was passed by the Senate and House of Representatives of the United States of America in Congress assembled, entitled 'An act to carry into effect a Convention between the United States of America and His Majesty the King of the Hawaiian Islands, signed on the thirtieth day of January, eighteen hundred and seventy-five,' which was approved on the 15th day of August in the year 1876;

"And whereas an act was passed by the Legislative Assembly of the Hawaiian Islands, entitled 'An act to carry into effect a Convention between His Majesty the King and the United States of America, signed at Washington on the 30th day of January, 1875,' which was duly approved on the 18th day of July, in the year 1876;

"And whereas the ratifications of the said Convention have been exchanged as provided in Article VI:

"The undersigned, William Hunter, Acting Secretary of State of

the United States of America, and the Honorable Elisha H. Allen, Chief Justice of the Supreme Court, Chancellor of the Kingdom, Member of the Privy Council of State, and His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, duly authorized for this purpose by their respective Governments, have met together at Washington, and having found the said Convention has been approved and proclaimed by His Majesty the King of the Hawaiian Islands and has been ratified and duly proclaimed on the part of the Government of the United States, and that the laws required to carry the said Treaty into operation have been passed by the Congress of the United States of America on the one part and by the Legislative Assembly of the Hawaiian Islands on the other, hereby declare that the Convention aforesaid, concluded between the United States of America and His Majesty the King of the Hawaiian Islands on the 30th day of January, 1875, will take effect on the date hereof:"

Now, therefore, I, ULYSSES S. GRANT, President of the United States of America, in pursuance of the premises, do declare that the said Convention has been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and been ratified and duly proclaimed on the part of the Government of the United States, and that the necessary legislation has been passed to carry the same into effect, and that the ratifications of the Convention have been exchanged as provided in Article VI.

In testimony whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done in the city of Washington this ninth day of September, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States of America the one hundred and first.

[SEAL.]

U. S. GRANT.

By the President:

W. HUNTER,

Acting Secretary of State.

CORRESPONDENCE.

ARGENTINE REPUBLIC.

No. 5.

Mr. Osborn to Mr. Fish.

No. 66.] UNITED STATES LEGATION,
Buenos Ayres, July 13, 1875. (Received August 20.)

SIR: I have the honor to inclose herewith a note, dated July 5, 1875, a copy of which I have retained for the archives of this legation, addressed to me by Dr. Pardo, minister for foreign affairs, in relation to the present boundary dispute between the Argentine Republic and Chili; and the protest of the Chilian minister, Mr. Blest Gana, against the law for a line of steamboats from Buenos Ayres to Santa Cruz River, with land-grants in favor of the company, and the reply of this government to the protest, copies of which I also herewith inclose.

I am, &c.,

THOS. O. OSBORN.

[Inclosure—Translation.]

Dr. Pardo to Mr. Osborn.

MINISTRY OF FOREIGN RELATIONS OF THE ARGENTINE REPUBLIC,
Buenos Ayres, July 5, 1875.

Mr. MINISTER: I have the honor to address your excellency, inclosing an authorized printed copy of the protest which the minister plenipotentiary of Chili has addressed to this ministry, in reference to the discussion in Congress of a bill to grant aid to a line of steamboats to Patagonia, and to make a land-grant to the company having charge of this enterprise. At the same time, a copy is also inclosed of the reply made to this protest, which is as groundless as it is irritating in tone.

In that reply, and with the brevity required in a document of that nature, I have recapitulated the state of the pending question with the government of Chili, as well as the fundamental reasons for resisting its unheard-of pretension with regard to Eastern Patagonia. They will convince your excellency that it is not the Argentine Republic that raises groundless disputes, which may give rise to unpleasant and even fatal emergencies.

If your excellency has ever given your attention to our boundary question with the government of Chili, you must have observed with surprise that that government, while professing great anxiety for its speedy settlement by arbitration, has, practically, placed obstacles in the way of the realization thereof by acts which, like its recent protest, affect the honor and the national dignity of the republic.

Strange as it may seem, it is nevertheless true that the government of Chili claims that its assertions, destitute of any proof, should have greater weight than the evidence of our titles and the notorious character of the facts; because, in effect, the peaceful and tranquil possession in which it claims to be of Patagonia has no other foundation than those assertions, and no greater value than the declaration which it recently made that on taking possession of Punta Arenas, it intended to do so likewise of all the adjacent territories, in which it included all Patagonia. According to this doctrine, which implies inadmissible reserves, to which nobody would consent, the government of Chili would have had the same right to assert a claim to the Rio de la Plata itself.

The principle of the *uti possidetis* of 1810 having been adopted as the rule to be ob-

served in fixing the boundaries of the two countries, the representative of Chili should not have forgotten that according to his own claim, the establishment of the colony of Punta Arenas in 1844, notwithstanding the protest of the Argentine Republic, in the *only* territory which was at that time in dispute, constituted the most flagrant violation of the *status quo;* while the charge which he makes that we have violated it, is without foundation, according to his own doctrines with respect to Eastern Patagonia, which, previously to the year 1810, as well as subsequently, was constantly under the absolutely undisputed jurisdiction of Buenos Ayres.

The Argentine Republic might then with a better right have initiated the discussion by raising a dispute with Chili with regard to that territory which she improperly and unlawfully occupied; but being actuated by other sentiments, she was always far from attributing designs to a neighbor which could compromise the dignity of a friendly and sister nation, preferring, with respect to actual possession, to leave the question of ownership to be decided by arbitration.

The Argentine government always expected from Chili the frank and friendly reciprocity to which it believed itself entitled by its constant acts of deference; and great was our surprise on seeing that simultaneously with the peaceable discussion she commenced her aggressions in order to claim, subsequently, to base her rights thereupon, forgetting that her government had by implication recognized the illegitimate nature of those acts, either by apologizing for their character, or promising not to continue them.

To our frank and friendly reclamation on account of acts of jurisdiction exercised by Chili at the eastern mouth of the Straits of Magellan, it replied by insinuating that we were opposing the free and untrammeled navigation of that body of water, as if such a charge could be made against the Argentine Republic, which, in its respect for the principle of free navigation, has gone so far to enforce it in its widest latitude in its own internal rivers.

The Argentine Republic only asked of Chili that it should first solicit our consent and co-operation for the execution of the works which were necessary to facilitate the navigation of that interoceanic passage.

Can a request be conceived more in harmony with the principles of international law, in view of the nature of the dispute? The government of Chili, however, would not even enter into this arrangement, which, as your excellency will understand, might have been the stepping-stone to others, which would have resulted in the amicable settlement of our differences.

Thus the time for the decision of the question by arbitration has been retarded by causes over which we had no control, and good grounds have been given to think that under the semblance of a desire for settlement, there was rather a purpose to delay it indefinitely. Otherwise, every act of deference on our part would not be met with a new demand or aggression.

If the government of Chili sincerely desired the termination of this dispute, why, abandoning its unfounded pretensions, does it not place both itself and us in such a position as to have arbitration carried into effect?

Our titles to Patagonia are of such a nature, Mr. Minister, as really to exclude better ones, because it is impossible that, in founding the viceroyalty of Buenos Ayres, the Spanish sovereign should have assigned that region to this government and to that of Chili at the same time. Any other division would have been absurd, in view of the position of the Andes; and one of the best-known men in Chili truthfully said, in a moment of unrestrained frankness, that history, geography, and right constituted us masters of Patagonia.

Now, with such convictions we can place no difficulties in the way of the settlement of the dispute by arbitration, nor can we delay it in the hope that dangerous contingencies will give us what is our own.

But this same confidence which we feel in the result of the dispute inspires us with apprehensions in view of the agitation which it is sought to produce by presenting the prospect of a state of dangers. We live for progress; and the intervals of peace which we have enjoyed have of late years enabled us to catch a glimpse of what we may soon become by pursuing a policy of peace.

America, and the nation which your excellency so worthily represents, being connected with us by a considerable commerce and vast capital employed in promoting our progress, and by thousands of its sons who have met with cordial hospitality in this country, are, like us, interested in the maintenance and perpetuation of peace as well in the acts as in the minds of the people, undisturbed by the want of trust which grows out of groundless and menacing acts, which, though they may be sufficient to produce alarms which do us injury, will never be able to intimidate us. Our desire to continue in the path of progress will not lead us to abandon our rights, nor to consent to the dismemberment of our territory, because justice is on our side, and we have the courage to sustain it.

I beg your excellency to be pleased to lay before your Government the protest and reply to which I have referred in this note, that it may judge on which side are justice

and moderation. And in order that your excellency may be able to give your testimony to it of the right which is on our side in refusing to yield to the demands of the Chilian government, and of the evidence of our right, I offer to your excellency to demonstrate it by exhibiting our original titles.

I desire thus to furnish a proof of the respect which my government entertains for the enlightened and impartial opinion of the friendly nations with which our own maintains relations of friendship and mutual interest.

I avail myself of this occasion to reiterate to your excellency the assurances of my most distinguished consideration.

PEDRO ANT'O PARDO.

His Excellency General THOMAS O. OSBORN,
Minister Resident of the United States.

No. 6.

Mr. Osborn to Mr. Fish.

No. 93.] UNITED STATES LEGATION,
Buenos Ayres, Feb. 3, 1876. (Received March 30.)

SIR: In an interview this afternoon with Dr. Iregoyen, minister for foreign affairs, he informed me that a treaty had just been concluded between the Argentine Republic, Paraguay, and Brazil on the following basis: All the Grand Chaco (the territory west of the Paraguay River) as far north as the mouth of the Pelcomayo River is declared to belong to the Argentine government. That portion of the Grand Chaco from Rio Verde northward is given to Paraguay.

* * * * * * *

Both the Argentine and Brazilian governments are to evacuate Asuncion, Villa Occidental, and all disputed territory, before June, 1876.

The island of Cerrito is conceded to the Argentine Republic, but cannot be fortified in time of peace.

The minister intimated to me that the result of the conference was yet a secret, as the protocol has not yet been signed, but would be this evening.

I think there is no doubt that Paraguay will ratify, as Dr. Iregoyen intimated to me that the Paraguayan minister acted under special instructions from his government, and that they covered all the articles agreed upon.

I am, &c.,

THOS. O. OSBORN.

No. 7.

Mr. Osborn to Mr. Fish.

No. 96.] UNITED STATES LEGATION,
Buenos Ayres, Feb. 14, 1876. (Received March 27.)

SIR: I have the honor to inclose herewith a printed copy, taken from the *Nacional*, of the articles of the treaty signed by the Argentine, Brazilian, and Paraguayan envoys at their last conference, and referred to in my dispatch of February 3, and numbered 93.

The minister of foreign affairs informed me that the terms of the treaty as published in the *Nacional* are correct.

From what I can learn it seems that the terms of the treaty are very acceptable both to the government and people.

* * * * * * *

I am, &c.,

THOS. O. OSBORN.

[Inclosure.]

TREATY OF LIMITS.

The *Nacional*, semi-official organ, publishes the terms of the treaty just signed by the Argentine, Brazilian, and Paraguayan envoys as follows:

1. All of Chaco, south of the Pilcomayo main channel, is hereby recognized as Argentine territory.
2. The Parana is the boundary between Paraguay and Argentine territory from the Tres Bocas upwards.
3. The island of Apipe belongs to the Argentines, that of Yacireta to Paraguay.
4. The island of Cerrito is declared Argentine.
5. That part of Chaco from Bahia Negra down to Rio Verde belongs to Paraguay.
6. The territory from Rio Verde southward to the Pilcomayo, including Concepcion and Villa Occidental, will be decided by President Grant as arbitrator.
7. The Brazilian and Argentine forces will evacuate Paraguay and Villa Occidental on or before 3d July, 1876.
8. The possession and civil jurisdiction of Villa Occidental will continue in the hands of the Argentine government, pending President Grant's decision.
9. Whoever be decided owner of Villa Occidental must recognize the Argentine and Paraguayan rights of property there.
10. If it be adjudicated to the Argentines they must pay the Paraguayans for any buildings belonging to the latter, and *vice versa*.
11. Paraguay engages to pay war expenses and indemnities to the Argentines whenever and however she pays Brazil and Uruguay.
12. The Argentine and Paraguayan governments must send in their statements, plans, and documents to President Grant within twelve months.

The *Nacional* adds that a treaty of commerce and navigation on the most liberal terms has also been concluded and signed.

No. 8.

Mr. Osborn to Mr. Fish.

No. 111.] UNITED STATES LEGATION,
Buenos Ayres, July 8, 1876. (Received August 25.)

SIR: This legation was thrown open at 2 p. m. on the 4th instant for reception in honor of the first centennial anniversary of the independence of our country. A few moments after the hour named, President Avellaneda arrived, accompanied by all the ministers of his cabinet, the justices of the supreme court of the republic, with many senators and deputies of the National Congress.

Soon after receiving the governor and officials of the province of Buenos Ayres—the diplomatic and consular corps in full costume—I was informed that a large procession headed by the press of the city was moving from the grand plaza to this legation to pay their respects, and soon more than five thousand people gathered, with four brass bands of music, in front of the legation.

Late in the evening of the 3d instant I received a note from the governor of the province conveying the congratulations of the chamber of deputies in honor of our centennial anniversary and the joint resolutions of both houses of the provincial government declaring the 4th a feast-day throughout the province.

The United States war-vessel Frolic, Captain Kirkland commanding, arrived in this port from Montevideo on the evening of the 3d instant. At 12 m. on the 4th, Captain Kirkland fired a salute of twenty-one guns, dressed ship, and then with his officers in full uniform reported to this legation.

The National Congress, after dispatching congratulations to the Congress of the United States, adjourned.

Throughout the city business was entirely suspended during the day. The plazas and streets were beautifully decorated with United States and Argentine flags, and at night the public plazas and public, and many private, buildings were illuminated. In fact it caused an American to feel that he was in old Boston.

* * * * * * *

I am, &c.,

THOS. O. OSBORN.

AUSTRIA-HUNGARY.

No. 9.

Mr. Orth to Mr. Fish.

No. 93.] LEGATION OF THE UNITED STATES,
Vienna, January 21, 1876. (Received February 12.)

SIR: A question of much internal interest to the empire has recently occupied the debates in the upper house of the Reichsrath, and its discussions have induced the coming to the capital of a large portion of the spiritual peers of the realm, with the view of taking part in the same, as well as of obtaining the rejection of the bill through their influence and votes. I refer to the draft of a law presented by the government and, with the exception of some immaterial amendments, adopted by the lower house, having for its object the investment in the state of the following rights, namely:

To regulate the formation of religious communities;

To subject the establishment of every monastery or convent hereafter to the approval of the temporal authorities, to be evidenced by a special law for that purpose;

To limit their correspondence with the superiors of the orders residing at Rome, or otherwise out of the empire;

To exercise control over the members and over the administration of the property of the respective institutions;

To allow a supervision by the police over such establishments; and finally,

To protect the individual rights of such members as might renounce those orders.

The prominent speaker against the proposed law was Cardinal Schwarzenberg, archbishop of Prague, who was supported by the Abbot of the Schotten monastery and several of the Bohemian landed aristocracy, while its chief advocates were the Baron Lichtenfels and Count Anthony Auersperg.

The minister of public instruction and worship, Dr. Stremayr, failed in his effort to amend that part of the bill requiring a special law in every case for the establishment of a new religious institution, desiring to substitute for this provision a simple authorization of such institutions by the executive power. Even the eloquence of Mr. v. Schmerling, formerly premier minister, proved unsuccessful in amending that provision of the bill restraining such institutions from acquiring landed property, irrespective of its value, without a special law being previously passed to authorize such acquisition. This amendment, if adopted, would have excepted from this provision all such orders as should devote themselves to the care of the sick, and all such convents of nuns as should be occupied in the instruction of youth. Had this amend-

ment been adopted, it would have changed very materially the original purpose of the bill, by affording facilities for evading its spirit and intent, for it would have been an easy matter for the founders of such institutions hereafter to allege that they were to be established "for the care of the sick" or for "the instruction of youth."

After a most animated and able debate, which lasted several days, the bill passed the upper house with slight amendments, which will doubtless be concurred in by the lower house.

I am of the opinion that such a law will prove both sound and salutary, being in consonance with the present constitutional principles and *régime* of the empire and demanded by the progressive spirit of the age. The large landed estates already owned by religious institutions, which enjoy a partial and in most cases total immunity from taxation, manifestly render it impolitic that the number and extent of these estates should be permitted to increase by new acquisitions.

I have, &c.,

GODLOVE S. ORTH.

No. 10.

Mr. Orth to Mr. Fish.

No. 109.] LEGATION OF THE UNITED STATES,
Vienna, March 9, 1876. (Received April 6.)

SIR: In my No. 93, of date January 21, 1876, I advised you of the passage in the upper house of the Reichsrath, with slight amendment, (the same having previously passed the lower house,) of the bill regulating and restraining religious institutions.

These amendments received the subsequent approval of the lower house, and the bill is now, and ever since its passage by both houses has been, in the hands of the ministry awaiting their recommendation for approval by His Majesty the Emperor.

As stated in my No. 93, this measure, during its pendency in the upper house, encountered the united opposition of the spiritual peers, who doubtless represented not only their views but also that of the body of the ultramontane clergy, who oppose, step by step, every innovation upon or change of their established notions or customs.

Pending this bill a most vigorous protest against it has been issued, signed by Cardinal Schwarzenberg and thirty-one archbishops and bishops and ecclesiastics. Presuming that the views thus expressed would be of interest to you in connection with this reformatory movement, I herewith send a copy of the original protest, as published in the *New Free Press*, with translation thereof.

The final action has not yet been taken by the ministry, but it is understood that a majority favor the measure and that the bill as it passed the Reichsrath will receive imperial approval.

I have, &c.,

GODLOVE S. ORTH.

[Inclosure.—Translation.]

Declaration of the Austrian archbishops and bishops relative to the draft of the law affecting monastic society as debated in the Reichsrath.

Already, in the year 1874, the Austrian archbishops and bishops assembled in Vienna found themselves placed in the sad necessity of bringing complaint against a propo-

sition of the government relating to the legal relations of the monastic societies that the intended law openly, and in a special manner, carried upon its front the mark of distrust, of arbitrariness, and of severity. In accord with the judgment of the Sacred Chair, which rightly recognized the destructive and hostile character of the law, they have proved in its several enactments how greatly thereby the rights of the church, the freedom of Catholic conscience, and the security of an honestly-obtained property are imperiled.

After the governmental draft of law was not put aside, as was to have been hoped, but, on the contrary, was submitted to discussion in both bodies of the representation of the empire, and hereby received many disadvantageous alterations, being rendered even more severe than before, the undersigned deem themselves called upon by their high ecclesiastical position again to oppose the present draft of law as well as the unjustifiable attacks which hereby have been raised against the orders of the Catholic Church generally, and against the monasteries in Austria especially, and to defend these ecclesiastical institutions against the suspicions contained also in the projected law.

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The undersigned bishops therefore entertain the assured hope that a law so composed under such ruinous operation will not be passed. *Should they, however, find themselves disappointed in this confident expectation*, so must they from a sense of duty *protest against* a law which is intended to do harm to an instruction in accordance with that of Jesus Christ and a form of Christian life approved by the Church and tending to the salvation of souls, a law which equally violates the equality and personal freedom of the citizen, the dignity of religion, the honor of the Catholic Church, and the members of religious orders. And especially must they protest against the insinuation that the Catholic Church could ever institute or approve a religious order whose vocation and operation would deserve those distrustful, suspicious measures which are expressed in the present draft of law.

January, 1876.—Signed by Frederick Cardinal Schwarzenberg and thirty-one archbishops, bishops, and other high ecclesiastics.

No. 11.

Mr. Delaplaine to Mr. Fish.

144.] LEGATION OF THE UNITED STATES,
Vienna, June 6, 1876. (Received June 26.)

SIR: The sittings of the two Delegations at Pesth are terminated, a perfect accord in the decisions of both assemblies being finally attained.

The military-budget estimates formed the most sternly-opposed and persistently-maintained subject of debates, but they were finally adopted with comparatively few deductions. During the discussion, a statistical parallel between the military budgets of France, Russia, Germany, and Austria-Hungary was submitted, which I believe may offer some interest.

The total expenses of the state in 1874, in France, amount to 1,091,700,000 florins; in Russia, to 956,200,000 florins; in Germany, to 864,300,000 florins; in Austria-Hungary, 635,131,000 florins.

Of these ciphers the war-budget absorbs in France 276,000,000 florins; in Russia, 303,000,000 florins; in Germany, 195,000,000 florins, and in Austria-Hungary, 98,000,000 florins. That exacts for France 25 per cent. of the total budget; for Russia, 31 per cent.; for Germany, 22.6 per cent.; for Austria-Hungary, comprising the expenses necessitated by the territorial armies (landwehr) of the two halves of the empire, 18.2 per cent. of the total budget. The maintenance of each soldier reaches on the average in France, 478 florins; in Russia, 412 florins; in Germany, 442 florins; and Austria-Hungary, 346 florins. The effective force of the army in time of peace in France is 460,000 men; in Russia, 663,000 men; in Germany, 438,000 men; and in Austria-Hungary, 247,000 men. The number of generals in active service in France, 325; in

Russia, 336; in Germany, 296; and in Austria-Hungary, 208. The number of officers of troops in active service in France amount to 25,103; in Russia, 25,652; in Germany, 18,887; and in Austria-Hungary, 13,644. As to the artillery for field-service, the French army disposes of 726 cannon; the Russian army, 2,768; the German army, 2,472; and the Austro-Hungarian army, 616 cannon. This would give to Austria-Hungary the unfavorable proportion of $2\frac{5}{6}$ cannon for each thousand men. Regarding the number of horses destined for the service of the army, France maintains 99,300; Russia, 88,200; Germany, 96,800; and Austria-Hungary, 46,000. Moreover, the average cost of a horse in France is 352 florins; in Russia, 210 florins; in Germany, 330 florins; and in Austria-Hungary, 220 florins.

In the Austrian Assembly the minister of foreign affairs, Count Andrássy, briefly addressed to the Assemblies the thanks of the Emperor for the patriotic zeal and self-denial which the delegates had manifested during the present severe financial crisis, by which the state also was acutely enfeebled in its resources, by voting the sums which were required to maintain the military force of the monarchy.

The chairman, Dr. Rechbauer, noting gratefully the expressions of satisfaction evinced by His Majesty, and reviewing the past labors of the Delegation, remarked that it was possible that although there had been effected a diminution of several millions under the appropriation of the former year, still, in view of the aggravation of the financial condition of the country, this result might not realize the general anticipation. Nevertheless, the force of circumstances was superior to the most ready and willing disposition, and he might affirm, without hesitation, that all the decisions taken had emanated from an ardent, patriotic zeal, and that they resulted from sincere effort for advancing the prosperity and greatness of the empire. He knew that some might seek to base that prosperity and grandeur on the more illustrious warlike feats of arms, and others on a greater solicitude for the peaceful development of commerce, industry, and agriculture. However, a greater diminution of expenses was, in his opinion, impracticable at the present time and under the present circumstances, and it might perhaps be a consolation to know that all populations of Europe were also groaning under the intolerable weight of armaments. The only remedy for its existing, if not its actual cessation, must be found in spreading simultaneously in all classes of the people the conviction that the preponderance of an organized state does not rest upon bayonets, and those who would thus seek to maintain stability by abandoning the ways of progress and exhausting the industrial and agricultural resources of the people would find the organization of short duration. Consequently an amelioration can be realized only by keeping this true principle in view. Moreover, this amelioration should not be an isolated one, but universal, and it was his opinion that the amelioration would be realized at no distant period.

Before the Hungarian Delegation Count Andrássy made a similar address, adding his personal thanks for the confidence which had been accorded to the common ministers, and to himself in particular.

The chairman, Szlavy, observed in reply that if the Delegations had considered the essential interest of the monarchy, it was because they were penetrated with conviction of the absolute necessity of maintaining intact the basis on which that monarchy reposed. He felt satisfaction in testifying to the progress accomplished by the common government, which had restrained itself as far as possible within the limits the budget allowed.

The chairman further expressed satisfaction that, in the question of the East, the policy of the government was in perfect accord with the views of the Delegation; that it was eminently pacific, and had been followed by a vote of confidence entered upon their minutes; that he was, moreover, happy to declare that since the commencement the Austrian Delegation had been in perfect accord in principle, as evidence of which there existed no difference to regulate; that the Delegation might with assurance await the judgment of public opinion as to having done its duty, both as required by the obligations imposed by the pragmatic sanction and by the institutions created thereunder, as moreover claimed by their native country, whose glory and prosperity were so dear to their hearts. A further proof had been obtained that the actual form of dual government preserved the interests of the two halves of the empire when both sides were animated by a conciliatory and sympathetic disposition. In conclusion, the chairman referred to their august sovereign "as one whom they knew how to love and respect, not only as constitutional monarch, but as supreme chief of the army, guardian of the peace and safety of the empire."

His address was followed by enthusiastic and prolonged cheers. It will, in conclusion, be proper to herewith present a summary of the net demands allowed by the Delegations for the year 1877, with a comparison of the estimate of the general government, as well as with the allowance of last year.

I.—ORDINARY,

First. Ministry for foreign affairs.—Claimed, 3,141,680 florins; allowed, 3,141,680 florins. Allowance of previous year, 3,556,160 florins.

Secondly. Standing army.—Claimed, 86,836,234 florins; allowed, 86,240,704 florins. Allowance of previous year, 87,228,974 florins.

Thirdly. Navy.—Claimed, 8,643,254 florins; allowed, 8,048,410 florins. Allowance of previous year, 8,642,290 florins.

Fourthly. Ministry of finance.—Claimed, 1,851,609 florins; allowed, 1,851,515 florins. Allowance of previous year, 1,852,639 florins.

Fifthly. Bureau of accounts.—Claimed, 128,079 florins; allowed, 126,714 florins. Allowance previous year, 127,534 florins.

II.—EXTRAORDINARY.

First. Ministry for foreign affairs.—Claimed, 38,800 florins; allowed, 38,800 florins. Allowance for previous year, 72,800 florins.

Secondly. Standing army.—Claimed, 12,279,931 florins; allowed, 10,585,006 florins. Allowance previous year, 13,093,300 florins.

Thirdly. Navy.—Claimed, 1,327,780 florins; allowed, 1,287,780 florins. Allowance previous year, 1,296,984 florins.

Fourthly. Ministry of finance.—Claimed, 1,050 florins; allowed, 1,050 florins. Allowance previous year, 1,050 florins.

Total in *ordinary* and *extraordinary*.—Claimed, 114,248,408 florins; allowed, 111,321,659 florins. Allowance previous year, 115,871,731 florins.

All the national and provincial parliamentary bodies being now closed, several of the officers of state, including Baron Lasser, minister of the interior, and Mr. de Stremayr, minister for worship and instruction, have taken their annual congés.

The resignation of Baron Koller, minister of war, by reason of impaired health, has been tendered and accepted by the Emperor. Lieutenant Field-Marshal Benedek, who represented him before the Delegations, and has long and actively served the department, is designated as his probable successor.

I have, &c.,

J. F. DELAPLAINE.

No. 12.

The Emperor of Austria to the President.

[Presented July 11, 1876.—Translation.]

HIGHLY ESTEEMED AND MUCH-BELOVED FRIEND: On the 4th day of July of the present year, the one hundredth anniversary of the existence of the Republic of the United States of North America is celebrated.

Accept on the occasion of this joyful centennial jubilee my most sincere congratulations for the people who are united as a powerful nation under the stars and stripes. A more welcome opportunity could not offer itself to me of looking back upon the fact that, by wise laws and continuous struggles to advance the welfare of the people, the United States have succeeded, in a comparatively short period, in making the most satisfactory progress in every respect.

In the expectation that the United States will advance in the same manner as heretofore, I express the hope that the intimate relations, based upon mutual confidence and warm sympathy, which exist between the states of my empire and the North American Union may continue without interruption. This, my heart-felt wish, Count Hoyos, my envoy extraordinary and minister plenipotentiary, is instructed to repeat to you verbally, when delivering this letter, and, at the same time, to assure you of my highest consideration.

FRANZ JOSEPH.

No. 13.

The President to the Emperor of Austria.

GREAT AND GOOD FRIEND: I have been much flattered by receiving, through Count Hoyos, your Majesty's estimable minister to this Government, the kind letter of the 19th of last month, which your Majesty was pleased to address to me, offering congratulations in anticipation of the then approaching hundredth anniversary of the independence of the United States. It is peculiarly gratifying to be informed that the sovereign of one of the most ancient, renowned, and powerful nations of the Eastern Hemisphere recognizes the progress in well-doing which, in that interval, has been accomplished by this Western Republic, and infers that a continuous advance in the same direction may be expected from it.

The good wishes which your Majesty expresses for this country are heartily reciprocated, and I trust that during the residue of your Majesty's reign the progress of the countries which are subject to your dominion also may be as signal as it has hitherto been in all that contributes to the happiness and prosperity of a people.

And so I pray the Almighty to have your Majesty in His safe and holy keeping.

Written at Washington, this twenty-second day of July, one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundred and first.

U. S. GRANT.

BOLIVIA.

No. 14.

Mr. Reynolds to Mr. Fish.

No. 90.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, October 5, 1875. (Received November 26.)

SIR: I have the honor to report that on yesterday a citizen of Bolivia made application at this legation for asylum, under the following circumstances: He was under apprehension of arrest, from what cause I know not, when he ran into the house of the legation, and asked for the minister, who was temporarily absent for a walk. Soon after a sergeant of the police came into the house in search of him, (Mr. Suariz,) but, finding that I was absent, remained till my return. When I arrived at the rooms of the legation I found both men standing upon the veranda of the "pateo," or open court of the house. I then invited both into my room and inquired their errand.

I was then informed by Mr. Suariz that he wished protection from me as minister against arrest by the sergeant, saying that there could be nothing against him of a criminal character, but there might be for political offenses on the 20th of March last, &c.

I then inquired for the writ of arrest, when I was told by the sergeant that no writ was necessary for arrest of citizens by the police; and, further, that he had been charged to arrest this man and take him to police headquarters. He further said that he did not know upon what charge he arrested Mr. Suariz, but said this could be ascertained at the police-office. He also said that if I wished to detain the prisoner in the legation rooms, he wished me to please give him a certificate to this effect, as this would exonerate him.

After careful examination of the case, I declined giving him asylum, and recommended the prisoner to go at once and respond to any charges that may be brought against him by the government.

This he did, after finding that my decision would not be changed. I felt that there was nothing else I could do without direct and immediate interference with the courts of the country, and all this without knowing for what he was to be arrested, nor with what charged as offense.

I write you thus minutely so that you may know the *whole case*, and I now ask respectfully for a decision of the Department as to whether I did right, or whether I should have acted otherwise in the case. I ask this for a special reason; also, as now "there be wise men here" and some lawyers who assert that "the American minister *failed* to do his duty in this matter, and that Suariz was clearly entitled to asylum in any minister's legation rooms," &c.

Those who make these assertions about the Suariz case are opposed to the now existing government; yet I seek the decision of my own Government in this case, which will be a record for the guidance for this legation in the future.

This republic is now tranquil throughout, and the courts are open to all for redress of grievances and for punishment of criminals in every department or province, which is additional reason for non-interference upon the part of foreign ministers resident here.

While I feel convinced that I did my whole duty in the case, I earnestly desire the indorsement of Government, or such specific instruc-

tions for such cases as will be full guidance in the future, and especially so now that the numerous friends of Mr. Suariz have so persistently asserted the contrary.

I am, &c.,

R. M. REYNOLDS.

No. 15.

Mr. Fish to Mr. Reynolds.

No. 49.] WASHINGTON, *December* 3, 1875.

SIR: I have to acknowledge the receipt of your dispatch No. 90, of the 5th of October last. It relates to the question of the right or privilege of affording asylum to citizens or subjects of the government to which a minister may be accredited, and informs the Department of the refuge taken by Mr. Suariz, a citizen of Bolivia, in your legation, while you were temporarily absent, and of your refusal on your return to grant him asylum.

In reply I have to state that your action in the matter, as set forth in your dispatch, meets with the approval of this Department.

With reference to your request for the views of the Department upon this question, it may be remarked that it has been the universal practice of this Government to discountenance the granting of asylum by its diplomatic and consular officers.

Among other objections to granting asylum to a citizen or subject of a foreign government, I may state that if persons charged with the commission of offenses can be sure of being screened in a foreign legation or consulate, they will be much more apt to attempt the overthrow of authority than if such a place of refuge were not open to them.

The right of asylum to persons charged with the commission of political offenses within a foreign legation or consulate is believed to have no good reason for continuance, to be mischievous in its tendencies, and to tend to political disorder.

These views have been frequently expressed, and while this Government is not able of itself to do away with the practice in foreign countries, it has not failed on appropriate occasion to deprecate its existence and to instruct its representatives to avoid committing it thereto. Upon a recent occasion, occurring in the island of Hayti, where, as represented to the Department, the asylum was forced upon the minister, it was found necessary to give a renewed and emphatic expression to these views.

It is believed that this brief statement of the views of the Department will act as a guide to the legation in the future, should any person seek shelter within its doors, which, however, it is hoped will not be the case, as by so doing it could not result otherwise than as a cause of annoyance and embarrassment to the minister, and tend to bring about questions of a vexatious and troublesome nature, which it is desirable to the interests of the two governments to avoid.

I am, &c.,

HAMILTON FISH.

No. 16.

Mr. Reynolds to Mr. Fish.

No. 120.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, June 1, 1876. (Received July 3.)

SIR: I have the honor to report that the rebellion of the 4th of May at La Paz, referred to in former dispatches, has now full control of this entire republic, with the exception of the coast, or "littoral."

Cochabamba, Potosi, Sucre, Oruro, and La Paz have proclaimed in favor of General Hilarion Daza as provisional president of Bolivia, and complete acquiescence has been secured without a single battle in any part of the country.

The whole people have been taken by complete surprise, and no organized opposition has been permitted to become strong before the well-organized forces of the revolution.

The indications now are that the government, with General Hilarion Daza as president, will become the permanent government of Bolivia.

Inclosed please find copies of correspondence had with J. Oblitas, secretary-general appointed by General Daza when he left with his army for South Bolivia. I have waited one month for developments of the revolution before forwarding this correspondence, and I now ask for such instructions from your excellency as may be deemed just in the premises.

I am, &c.,

R. M. REYNOLDS.

[Inclosure 1 in No. 120.—Translation.]

Mr. Oblitas to Mr. Reynolds.

SECRETARY-GENERAL OF STATE,
La Paz, Bolivia, May 4, 1876.

SIR: By the political change which the people and the army conjointly have brought about to-day, General Hilarion Daza has been proclaimed provisional president of this republic, the office of secretary-general of state having devolved upon me in person.

To impart this knowledge to your excellency is my high honor.

I subscribe myself, &c.,

J. OBLITAS.

To the CHARGÉ D'AFFAIRES *of the Anglo-American Confederation.*

[Inclosure 2 in No. 120.]

Mr. Reynolds to Mr. Oblitas.

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, May 5, 1876.

SIR: I have the honor to acknowledge receipt of your note informing the "encargado de negocios de la Confederacion Anglo-Americano" of the political change of affairs in Bolivia by the proclamation of General Hilarion Daza as provisional president of the republic.

This legation will take note of the fact reported, and the whole question will be referred to my Government for information and for such instructions as may be deemed necessary.

You will please tender my sincere thanks to General H. Daza for his personal assurances to me that full protection would be given to all legation and consular flags, and that persons and property would be duly respected and the rights of all fully guaranteed.

I am, &c.,

R. M. REYNOLDS.

To Hon. J. OBLITAS, *Secretary-General.*

No. 17.

Mr. Reynolds to Mr. Fish.

No. 125.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, August 23, 1876. (Received October 14.)

SIR: I have the honor to report since my return to La Paz that I find the condition of public affairs substantially the same as reported in my dispatch June 30, (No. 123.)

General H. Daza is still in the interior, and reported to be on his way to Oruro, where he will remain one week and then return to La Paz, via Corocoro, about the 20th September.

No ministers of finance, war, or foreign affairs have been announced as yet, and the government is still administered by the military authority, as reported in my dispatch of June 30, referred to. There appears to be no opposition, whatever, to the authority of General Daza as President of Bolivia, and general peace prevails throughout the republic. Private property is respected and personal liberty is enjoyed by all, with the exception of the late President, Thomas Frias, who is now in Arequipa, Peru, an exile from Bolivia.

The announcement of a new ministry is promised by General Daza upon his return to La Paz, of which the Department will be duly notified when it transpires.

I am, &c.,

R. M. REYNOLDS.

No. 18.

Mr. Reynolds to Mr. Fish.

No. 129.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, September 29, 1876. (Received November 14.)

SIR: I have the honor to report that General Hilarion Daza made a triumphal entry into La Paz, as President of Bolivia, on the 24th instant. The time since his arrival has been devoted to festivities and army-parades.

He has not named his ministers of the government, and no business has had the attention which, in many cases, was greatly needed. It is now announced that the ministry will be formed next week and the government duly inaugurated.

No opposition has been met by President Daza, and, at this writing, all seems quiet and tranquil, with General H. Daza in full and complete possession of the government, as provisional president of the republic. When the cabinet is formed and officially announced, I will at once advise the Department.

I am, &c.,

R. M. REYNOLDS.

BRAZIL.

No. 19.

Mr. Fish to Mr. Partridge.

No. 154.] DEPARTMENT OF STATE,
Washington, July 14, 1875.

SIR: I inclose, herewith, a copy of a communication of the 12th instant, from the Secretary of the Navy, relative to the humane and courteous conduct of Baron Ivanheimer, of the Brazilian navy, in tendering to Capt. F. A. Roe, commanding the United States ship "Lancaster," the services of the surgeons of his flag-ship, the surgeon of the "Lancaster" having died at sea, and one of the assistant surgeons at Bahia, from yellow fever, and requesting that appropriate acknowledgments may be made to Baron Ivanheimer and to Dr. E. A. F. da Rocha, through this Department.

I will consequently thank you to communicate to the minister for foreign affairs the facts mentioned in the inclosed letter of the Secretary of the Navy, and at the same time to request that the thanks of this Government may be conveyed to Baron Ivanheimer for his humane and generous offer to Captain Roe on the occasion referred to, and to Dr. da Rocha, who accompanied the "Lancaster" to this country, for his self-sacrificing spirit in undertaking a service which promised to be attended with anxiety, severe professional duty, and with great personal danger.

I am, &c.,

HAMILTON FISH.

[Inclosure.]

Mr. Robeson to Mr. Fish.

NAVY DEPARTMENT,
Washington, July 12, 1875.

SIR: I have the honor to bring to your notice, in order that appropriate acknowledgments may be made to whom they are due, the humane and courteous conduct of Baron Ivanheimer and Dr. Euclides Alves Ferriera da Rocha, of the Brazilian navy.

The facts are as follows: The U. S. ship Lancaster, Capt. F. A. Roe, commanding, having completed several years' service on the coast of Brazil as flag-ship of our squadron in those waters, sailed from Rio de Janeiro April 22 for the United States with every prospect of a pleasant and happy voyage. When a few days out yellow fever appeared on board, and in rapid succession four of her officers were taken down, among them the chief medical officer of the ship and one of the assistant surgeons, the former of whom died at sea and the latter after reaching Bahia. But one other medical officer remained for duty, and Captain Roe deemed it prudent, in view of the long distance to his port of destination and the probability of the disease spreading, to shape his course for Bahia, some four hundred miles to the westward.

The Lancaster reached Bahia May 9, where the assistant surgeon was transferred to the hospital and died, as above stated, two days afterwards.

With upwards of four hundred souls on board, a long distance from home, the equatorial regions to pass through, and a prospect of the re-appearance of fever, the Lancaster was in an unfortunate condition, having but one medical officer on board for duty.

As soon as Baron Ivanheimer, commanding the Brazilian squadron, then at Bahia, learned of the serious loss sustained by the Lancaster, he generously tendered to Captain Roe the services of one of his surgeons of the flag-ship, Dr. da Rocha, to accompany the Lancaster home. Captain Roe was more than glad to accept the kind offer of the baron, and to be thus assured of valuable professional services should the fever re-appear, a contingency most likely to occur.

Happily the disease had disappeared with its last victim, and the Lancaster reached Hampton Roads June 26 with all well on board.

Dr. da Rocha, exercising his own pleasure, his services being no longer required, left the ship at that point, and the Department is most happy in providing for his comfort and enjoyment while he is in this country, and will provide for his passage back to his station in the mail-steamer of the 23d instant from New York, the first opportunity for returning to his post, and which he proposes to avail himself of.

The kindness and thoughtfulness of Baron Ivanheimer and the self-sacrificing spirit of Dr. da Rocha, in undertaking a service which promised to be attended with anxiety, severe professional duty, and great danger, meet with the Department's warmest appreciation and admiration, and I will be much gratified if you will make known to the government of Brazil, and through it to Baron Ivanheimer and Dr. da Rocha, the deep sense thus entertained of the aid extended to one of our ships of war, its officers and crew, in so trying an emergency.

Very respectfully, &c.,

GEO. M. ROBESON,
Secretary of the Navy.

No. 20.

Mr. Purrington to Mr. Fish.

No. 297.] UNITED STATES LEGATION,
Rio de Janeiro, November 30, 1875. (Received Feb. 21, 1876.)

SIR: I have the honor to inform you that a new, or at least a formal construction has been placed upon the custom-house regulations of this port in regard to friendly ships of war therein; and as it has probably grown out of a controversy between our squadron and the inspector of customs, which there is reason to believe may be laid before the Navy Department, I have thought it proper to explain as briefly as possible the circumstances connected therewith.

Since the difficulty of two years ago, alluded to by Mr. Shannon in his No. 151, private stores have been dispatched free of duty; as a rule in the admiral's absence from Rio de Janeiro, they have been given up on the order of Paymaster A. W. Bacon, and, as a matter of practice, even in the admiral's presence.

In the latter part of August certain cigars for the Brooklyn, and addressed as usual in the care of Mr. Bacon, as naval storekeeper, were refused free dispatch on his (Bacon's) request, the inspector, as bound to do in strictness, asking the admiral's request, on receipt of which the cigars were to be delivered. On the contrary, the request was returned briefly indorsed, "not possible."

The Brooklyn being about to sail, in order to obtain the cigars, which, however, were not delivered in time, the duties were paid under protest and the case referred by the admiral to the legation in a note, of which inclosure 1 is a copy.

Calling at the foreign office in the absence of the minister, I stated the case to Baron de Cabo Frio, director-general, who requested me to restate it in an unofficial note.

After some days a verbal message was sent me declining the request, on the ground that private goods in private vessels were not exempt from duty.

The same day wine was dispatched free of duty for the French vessel "Vénus" on the request of the minister.

Partly because this favor to the French was a flat contradiction of the principle, and partly because our officers complained that they knew not what might be imported by them duty free, and that in the then state of affairs they were subject to the variable decisions of the inspector, I addressed an official note, of which inclosure 2 is a copy,

simply asking whether a new construction of the rule had been made or if the favor was no longer extended. I also verbally explained that under the principle advanced the entire table of officers would be taxed, since they commuted their rations and purchased their own mess-stores.

In the first instance, H. E. Baron de Cotegipe, who referred it to himself as minister of finance as well as of state, inclined to even go so far as to put naval officers on the same footing with secretaries of legation and attachés, who do not import goods free of duty.

At length he gave the decision of which inclosure 3 contains two copies and a translation.

I should not have alluded to this matter were it not that the peculiar course of the inspector in several cases, now happily arranged, has caused, not unnaturally, a little irritation on the part of some of those interested, and I have understood that the matter would be directly or indirectly referred to Washington, and also because I presumed the rule of Brazil in this matter might be known with advantage at the Treasury Department.

I have, &c.,

W. A. PURRINGTON.

[Inclosure 1 in No. 297.]

Rear-Admiral Le Roy to Mr. Purrington.

UNITED STATES FLAG SHIP BROOKLYN, 2D RATE,
Rio de Janeiro, Brazil, September 4, 1875.

SIR: The inspector of customs of this port has refused to pass free of duty 4,000 cigars which belong to the officers of this squadron; according to the laws of this country, and precedent, all articles for the use of the diplomatic corps and for the squadrons of friendly powers shall pass free upon application of the minister or chief of squadron. As this vessel is to leave this port at an early day, these officers preferred paying the duty of Rs. 101‖620 rather than leave their property behind; but I have to ask your attention to the matter, that the money may be refunded. I should also be obliged to you if you will have the question whether or not the officers of the Navy of the United States can have their property pass free of duty at all times definitely determined.

In my absence, I would be obliged to you if you will communicate any information you may obtain regarding the matter to Paymaster Bacon, who is familiar with the subject.

Very respectfully,

WM. E. LE ROY,
Rear-Admiral Commanding U. S. Naval Force South American Station.

Hon. W. A. PURRINGTON,
Chargé d'Affaires United States, Rio de Janeiro, Brazil.

[Inclosure 2 in No. 297.]

Mr. Purrington to His Excellency Baron de Cotegipe.

UNITED STATES LEGATION IN BRAZIL,
Rio de Janeiro, September 21, 1875.

The undersigned, secretary of legation and chargé d'affaires *ad interim*, having received from Rear-Admiral Le Roy, commanding the United States naval force on the South Atlantic station, a letter stating that certain cigars, purchased and intended for the use of officers of his squadron and forming part of their stores, had been held for duty at the custom-house, and asking that the legation would inform him if the favor hitherto extended to ships of war in this respect was to be discontinued, has the honor to ask that his excellency the minister and secretary of state for foreign affairs will have the kindness to inform him whether any repeal or new construction of the custom-house regulations has been made of such a nature that the favor hitherto extended to the officers and crew of war-vessels of friendly nations, of importing mess-stores free of duty, exists no longer, and whether, in the future, wines, cigars, and other such stores for naval officers are to pay duty.

If no such repeal or construction of the regulations has been made, the undersigned begs that the inspector of customs may be so informed.

And the undersigned avails himself of this opportunity to renew to his excellency the minister and secretary of state for foreign affairs the assurances of his highest consideration and esteem.

W. A. PURRINGTON.

His Excellency BARON DE COTEGIPE,
Minister and Secretary of State for Foreign Affairs.

[Inclosure 3 in No. 297—Translation.]

Baron de Cotegipe to Baron de Cotegipe.

RIO DE JANEIRO, *October* 30, 1875.

MOST ILLUSTRIOUS AND EXCELLENT SENHOR: As it appears that certain doubts have arisen between some of the foreign legations and the custom-house of this district concerning the true meaning of article 4, section 8, of the preliminary dispositions of the tariff, the one party holding and understanding that the exemption from duties there conceded to goods and objects imported for the use of ships of war of friendly nations, and of their equipments, which shall arrive in the transports of the respective states, in packets or in merchant-vessels, is extended to wines, cigars, and other objects destined for the use of the officers of said vessels, of whose equipment they form part, and desiring to fix the interpretation of the said section 8 so that the intentions of the regulations may retain their force, neither limiting the favors and privileges authorized to the men-of-war of friendly nations, nor giving them an extent not compatible with the interests of the revenue, I have resolved to declare under this date to the consular inspector of the said custom-house that the exemption from duties granted by the said article 4, section 8, of the preliminary dispositions of the tariff comprehends:

First. Warlike articles and munitions of war.

Second. Implements, apparatus, instruments, and naval munitions.

Third. Provisions, articles of uniform, clothing for the crew, and other objects such as are customarily furnished by the state in rations, either by list daily or for a fixed time, when they shall be forwarded by their respective governments or by its naval administration, destined for the squadron or war-ships, and not exceeding a quantity necessary for a six months' supply.

Fourth. Objects for the uniform and arms of the officers on board, instruments of their profession, books, maps, and prints (*impresos*) imported in their names.

Fifth. Wine imported for the use of the officers on board, provided that it does not exceed the quantity fixed by the annexed table, and that no more shall be received at one time than sufficient for a three months' supply in proportion to the entire amount. All other goods and objects not herein mentioned, and all quantities exceeding those fixed in the table mentioned, shall pay duty under the tariff in force as though they were not for the officers and crews of foreign war-vessels. Requests for free dispatch may be made only by the legation or by the chief of the naval station, or, in their absence, by the commanders of war-vessels; and the directions indicated at the end of the opinion of January 24, 1874, from the treasury to the ministry under the charge of your excellency being observed, the goods referred to may be sent from their place of deposit, or from the ship in which they were imported, on board of that for which they are intended.

I beg that your excellency will communicate this by circular to the foreign legations at this court, so that they may not only have all consideration for the rules established for the concession of this favor, but that, in the interest of the customs-service, they may facilitate the prompt delivery of the goods whose free dispatch is asked, by giving the necessary information concerning the shipment, character, and destination of the respective articles.

God save your excellency.

BARON DE COTEGIPE.

His Excellency the MINISTER AND SECRETARY OF STATE FOR FOREIGN AFFAIRS.

[Inclosure 1 in inclosure 3 in No. 297.]

Table of the quantity of wine for chiefs and officers to which free dispatch is granted and of which the opinion of the ministry of foreign affairs of this date treats.

	Litres.
To the chief of naval station	2,000
To the captain and other officers to the post of lieutenant	1,000
To the lieutenants and other officers	500

TREASURY DEPARTMENT, *October* 30, 1875

JOSÉ SEVERIANO DA ROCHA.

[Inclosure 2 in inclosure 3 in No. 297.]

Extract from the ministry of finance, January 24, 1875, *referred to in that of October* 30, 1875.

* * * * * * *

Still desiring to facilitate, as far as compatible with the revenue and the service of the navy of friendly powers, the dispatch of goods and objects from the custom-house of this district, which shall come in packets or merchant-ships for foreign vessels, and also giving warning of the inconvenience that may result from the delay of the proper documents on the part of the respective governments, I hereby authorize the counselor-inspector from this date to grant, without prejudice from the revenue, (*fiscalisação,*) free dispatch to goods and objects which chiefs of foreign legations accredited to this court shall officially declare to him are intended for the consumption of the naval forces of their respective nations, indicating their place of shipment, the vessel transporting them, and the quality, quantity, contents, and marks of the respective packages.

And, since in the project of a new tariff there is admitted for this purpose the request of the chief of naval station, I, from this date, allow this practice.

No. 21.

Mr. Partridge to Mr. Fish.

No. 322.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, April 20, 1876. (Received May 22.)

SIR: In my No. 277 (August 20, 1875) I gave account to the Department of an extraordinary law which had been hurried through the chambers, by the fifth article of which, in connection with the eighth and second, this Parliament attempted to provide for the punishment of foreigners, who might afterwards attempt to come into or pass through Brazil, for acts committed by them, in their own or some other foreign country, beyond Brazilian jurisdiction, and to which, at that time, I called the attention also of my colleagues.

* * * * * * *

It is understood that the Earl of Derby directs Mr. Drummond to notify the Brazilian government that Her Majesty's government cannot consent or submit to any action by Brazil thereunder which would punish British subjects in Brazil for acts done by them either in Great Britain or in any other foreign country not subject to Brazilian jurisdiction.

Mr. Drummond thereupon informed this government of that resolution. * * * The minister of foreign affairs states that a similar law punishing foreigners who should be taken in or surrendered to France for certain offenses by them committed in a foreign country (specifying acts done against the safety of the state, forgery of its public seals, of its coined money or authorized bank-notes) had long ago been adopted in France, "a country where everything in respect of legislation was carefully studied, and any new measure adopted only after it had been ascertained that such measure did not infringe the rights of other nations." He added that this legislation by France had not been objected to by Great Britain, and that laws similar to and in imitation of the French had been enacted since by Belgium, the Netherlands, Sardinia, Austria, Prussia, Bavaria, Saxony, Würtemberg, Hanover, Norway, Portugal, Oldenburg, Saxe-Weimar, Hesse, Baden, Saxe-Altenburg, and Brunswick, and, so far as he was informed, without any protest against the same or any notification to those countries by Great Britain that she could not consent or submit to that legislation being

enforced against British subjects for acts so done by them in other countries, not subject to the jurisdiction which attempted to hold them responsible therefor.

I have said that I was not sufficiently informed as to the legislation of those countries to be able to say whether the statements of Baron de Cotegipe, in that respect, were correct or not; but I was aware that France had attempted, by certain laws, to follow Frenchmen (not foreigners) into foreign countries and hold her own citizens responsible, on their return to France, for acts done by them in countries not subject to French law. But I had not supposed, and could not now believe, without proof and sight of the law itself, that France, or those other countries named, had attempted to hold others than their own subjects, foreigners never in any way subject to their laws, responsible for any acts done outside those countries; and that, at any rate, as I understood our own and English law, neither the United States nor England ever set up any such jurisdiction over acts done beyond their limits by persons not subject to their law; that in my opinion nothing in international law could be adduced to support such claim; and that I supposed the United States equally with Her Majesty's government would not be willing to consent to the enforcement of such laws against their own citizens.

I am, &c.,

JAMES R. PARTRIDGE.

No. 22.

Mr. Fish to Mr. Partridge.

No. 175.] DEPARTMENT OF STATE,
Washington, May 26, 1876.

SIR: Your dispatch, No. 322, of the 20th ultimo, has been received. It represents that the British government, pursuant to the opinion of the law-officers of the Crown, has instructed its minister to inform the government of Brazil that it will not acquiesce in the application of the Brazilian law, to which you refer, to acts done by British subjects outside of the jurisdiction of Brazil. This decision may be regarded as obviously sound, and is entirely concurred in by this Government.

If, therefore, there should be occasion, you will inform the minister of foreign affairs that we cannot consent to the prosecution or punishment of a citizen of the United States pursuant to the objectionable statute adverted to.

I am, &c.,

HAMILTON FISH.

No. 23.

Mr. Partridge to Mr. Fish.

No. 324.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, May 21, 1876. (Received June 22.)

SIR: The remarkable falling off in the production of sugar in Brazil, and especially in the provinces to the north of Rio de Janeiro, has for

some time occupied attention here, and has caused during the past year a large reduction in the receipts from the export-duties.

This diminution of production for export (which has become so prominent, within the last four years especially) has now almost reached the point of cessation.

In Bahia this is true particularly, as well as in the other provinces, and has caused anxiety to the government as well as to the planters.

These last have frequently declared that, with the burden of the export-duty (now reduced) of 9 per cent. *ad valorem* to the imperial treasury and 4 per cent. to the province, (6 per cent. in the province of Bahia,) making 13 per cent., (and 15 per cent.,) it was impossible for them to continue sugar-making in competition with the West Indies, especially the French islands, and the planters of Demerara—English, Dutch, and French—as well as with Cuba and Porto Rico. In all these colonies and countries the latest improvements in sugar-mills and machinery have been introduced, as well as improved agricultural implements; and they are under the system of free labor now established there, with the single exception of Cuba. And it is to be noted that in Brazil, where the system of slave labor still prevails, in the hitherto sugar-growing provinces especially, and where formerly sugar was produced, perhaps more cheaply than in any other country, and, with the exception of Cuba, more abundantly than elsewhere, now, under the improvements in its manufacture in free-labor countries, this culture here has become unprofitable, and is absolutely falling off to complete cessation for export.

In great measure, of course, this result is attributable to the heavy export-duty. But another cause is to be found in the slovenly mode of culture, in the habits always engendered and pursued in countries where slavery prevails, the want of enterprise in introducing the latest improvements, the neglect to properly renew the cuttings and to refresh the cane by new importations, in the want of capital for the introduction of machinery, and finally, in the last years, in the high price obtained for coffee. This has tempted many planters in the northern provinces to sell or bring their slaves into the coffee-growing region immediately north, south, and west of Rio, and, in many cases, in Bahia, Pernambuco, and Maranham, has caused the abandonment of sugar-culture in order to commence coffee-growing on the highlands and interior plateaus of those provinces.

One of the journals in Rio, in an article on the subject, prints the following words:

> If there is any one who still doubts whether the sugar industry in Brazil has fallen into decay—that culture which was so flourishing in all times since the dominion of the house of Nassau until very recently—he has only to step into the national exposition of our industrial products now being holden in the capital, and there he will see what thing, in quality, is the article we call sugar, and which we export from this country to compete, in foreign markets, with the fine and beautiful product which comes forth from the co-operative sugar-mills and machinery of Egypt, Mauritius, and Martinique. He will soon be convinced that, in the English market, they have reason on their side when they reject with disdain the sugar that comes from Brazil.

It thus appears that the main cause of the falling off is to be found in the old fashioned and inferior quality of the sugar now produced in Brazil, while that grown in free-labor countries, and prepared by proper and improved machinery, has, at even greater cost of production, (though free from export-duty,) nearly driven the Brazilian product from the market.

I am, &c.,

JAMES R. PARTRIDGE.

No. 24.

[Telegram.—Translation.]

The Princess Imperial, Regent of Brazil, to the President.

RIO DE JANEIRO, *July* 4, 1876. (Received July 4.)

The Princess Imperial, Regent of Brazil, congratulates herself and the President of the United States of America on the occasion of the centenary of the independence of those States, for whose prosperity she offers sincere prayers.

THE PRINCESS IMPERIAL, REGENT.

No. 25.

[Telegram.]

The President to the Princess Imperial, Regent of Brazil.

GREAT AND GOOD FRIEND: I duly received by telegraph the congratulation which your Imperial Highness was pleased to address to me on the occasion of the centenary anniversary of the Independence of the United States. The good wishes which you kindly offer for our continued prosperity are cordially reciprocated.

I pray God to have your Imperial Highness in His safe and holy keeping.

Written at Washington, this twenty-second day of July, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the one hundred and first.

Your good friend,

U. S. GRANT.

CENTRAL AMERICAN STATES.

No. 26.

Mr. Williamson to Mr. Fish.

No. 371.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, June 7, 1875. (Received July 27.)

SIR: I have the honor to submit the following synoptical report respecting the Central American states, which I hope may be interesting. The information has been compiled from various sources. A principal source has been a geography of Central America, just published by Mr. Toledo, which has been adopted by the government of Guatemala as a text-book in the schools.

The difficulty, if not impossibility, of obtaining accurate information in countries whose governments have not yet sufficiently realized the importance of statistics, or have not yet published them, may be pleaded as an excuse for inaccuracies which may hereafter be detected, and, I hope, pointed out.

	Area in square miles.
Guatemala, (excluding Soconusco, which has been in possession of Mexico since 1841)	40,777
San Salvador	9,600
Honduras	43,700
Nicaragua	40,000
Costa Rica, (including Guanacaste)	21,497
Total	155,574

All the estimates (for there has been no complete survey) differ. In a standard geography (Black) I have seen the area of Guatemala stated at 28,000 square miles and Honduras at 72,000.

Some geographers and writers include Chiapas and Soconusco in Guatemala, and even Belize. Others exclude the Mosquito coast and Bay Islands from Honduras and Nicaragua. Some give Costa Rica her ancient provincial boundary south of the Gulf of Chiriqui, and others take away Guanacaste and give it to Nicaragua.

The total area of the Central American states thus appears to be considerably less than the area of the State of California. Of this area a great part is occupied by volcanic mountains, and the proportion fit for cultivation is variously estimated.

In my judgment, there have been great exaggerations about the fertility of the soil of Central America. There are localities of unparalleled richness, capable of sustaining a very dense population. The general capability to sustain population, I think, is not above the average of Europe, if so great.

John Bailey, esq., in his work published in 1850, estimates that—

Guatemala is capable of sustaining a population of	7,956,000

Upon his basis of calculation,

San Salvador would be capable of sustaiinng	1,920,000
Honduras	8,740,000
Nicaragua	8,000,000
Costa Rica	4,299,400
Total	30,915,400

This speculation is in my opinion an excessive exaggeration.

POPULATION.

Guatemala	1,200,000
San Salvador	650,000
Honduras	350,000
Nicaragua	265,000
Costa Rica	170,000
Total	2,635,000

The populations are classified as follows:

GUATEMALA.

White foreigners	829
Unmixed native whites	25,000
Ladinos, which include all mixtures of whites with Indians, negroes, and Caribs, in a greater or less degree	300,000
Mestizoes, (mixed colored blood)	74,171
Caribs and negroes	5,000
Indians	795,000
Total	1,200,000

SAN SALVADOR.

White foreigners	1,000
Native whites	25,000
Ladinos, (as defined above)	400,000
Mestizoes, (as defined above)	48,800
Caribs and negroes	200
Indians	175,000
Total	650,000

HONDURAS.

White foreigners	500
Native whites	2,500
Ladinos, (as defined above)	150,000
Mestizoes, (as defined above)	42,500
Caribs and negroes	7,500
Indians	147,000
Total	350,000

NICARAGUA.

White foreigners	1,300
Native whites	5,000
Ladinos, (as defined above)	100,000
Mestizoes, (as defined above)	90,000
Caribs and negroes	10,000
Indians	58,700
Total	265,000

COSTA RICA.

White foreigners	2,500
Native whites	75,000
Ladinos, (as defined above)	70,000
Mestizoes, (as defined above)	17,000
Caribs and negroes	500
Indians	5,000
Total	170,000

As this classification of the population of Central America has been made without a census, and differs materially from other classifications both as to the five states and as to three of the states separately, I give herewith the proportions stated in the published works of the following writers, Squier, Wells, Crowe, Levy, and Toledo.

Mr. Squier gives the following proportions for the whole of Central America in 1855:

Whites	100,000
Mixed	800,000
Negroes	19,000
Indians	1,189,000
Total	2,108,000

Mr. Crowe gives the following:

Indians	$\frac{3}{5}$
Ladinos	$\frac{1}{4}$
Whites	$\frac{1}{20}$
Mulattoes	$\frac{1}{80}$
Negroes	$\frac{1}{50}$
Zamboes	$\frac{1}{100}$

Mr. Levy, in his work on Nicaragua, gives the following for that state:

Indians	.550
Whites and creoles	.045
Negroes	.005
Mestizoes, (mixed)	.400

Dr. Wells, in 1857, divides the population of Honduras as follows:

Negroes and mulattoes	140,000
Indians	100,000
Ladinos	60,000
Whites	50,000
Total	350,000

Mr. Toledo, in his geography, referred to, divides the population of Guatemala as follows:

Indians	720,000
Ladinos	300,000
Whites	180,000
Total	1,200,000

I do not pretend to claim that my classification is absolutely correct. All that I can say for it is, that it is an estimate based upon careful observation and inquiry, after having traveled twice through the Central American States. At best, however, it is an estimate, and an estimate may be called a deliberate guess.

According to this classification the population of the whole of Central America may be divided as follows:

White foreigners	6,129
Native whites	132,500
Ladinos, (as defined)	1,020,000
Mestizoes, (as defined)	272,471
Caribs and negroes	23,200
Indians	1,180,700
Total	2,635,000

The white population is less than the population of San Francisco, and the whole population is less than that of Ohio according to the census of 1870. It increases slowly.

It is proper to remark that the Indians of Central America are agricultural, (except, perhaps, one or two small tribes,) and constitute the main body of the laborers of the country. The Ladinos are the governing class, and are likely to continue so, unless they are absorbed by the Indians as their white ancestors have been.

The mass of the population is on the plateau nearest the Pacific slope. It is believed a large majority of the Indians retain the primitive habits of their ancestors and speak nothing but their native dialects.

PUBLIC IMPROVEMENTS.

Railroads.—There are two railroads in Central America, both narrow gauge. One is from Puerto Cortez to San Pedro, in Honduras, 37 miles long. The other is in Costa Rica, from Alajuela to Cartago, both interior towns, the former two days' journey from the Pacific coast, and the latter about four days' journey from the Caribbean. There is also a part of the Costa Rica Railroad completed from Port Limon, about 20 miles in the interior. The whole length of road completed in Costa Rica is stated to be about 57 miles.

Telegraphs.—Guatemala has 398 miles of completed telegraph-lines, and 511 additional miles under contract and in course of construction. San Salvador has over 500 miles completed; Costa Rica has the line completed nearly through her territory from Puntas Arenas to Port Limon. Nicaragua and Honduras have no telegraph-lines yet, but the former state is reported to have one under contract.

Cart-roads.—In Guatemala, San Salvador, Costa Rica, and Nicaragua the centers of population are accessible by cart-roads. Honduras has none. Most of the interior transportation in Central America is by mules, and Indians called "Cargadoros." I do not think it too much to say that during the rainy season of six months there are but few cart-roads that are passable by wheels.

ARMY.

The standing army of Guatemala consists of—

Generals	43
Officials	287
Soldiers	1,848
The militia numbers	33,229

Indians are exempt by law from military service, and are said never to volunteer.

The standing army of San Salvador is—

Men and officers	1,090
Organized militia	9,000

In San Salvador the Indians are subject to military duty, and I have been told by officials of that government that in time of war a military force of 50,000 men would be liable to duty.

The army of Honduras is composed of the national guard of 2,000 men, of whom only 500 remain on duty during time of peace.

In Nicaragua the standing army is composed of—

Generals	25
Men	1,000

which in time of war can by law be increased to 6,000.

The standing army of Costa Rica is 500 men in time of peace, liable to be raised to 8,000 in time of war, excluding the militia. Costa Rica has a modification of the Prussian military system, and her male population between the ages of eighteen and fifty-five is divided into three classes, all subject to military duty in time of war.

The military expenses of Guatemala for 1874 were $1,019,293.07.

The military expenses of San Salvador for the fiscal year of 1874 were $430.390.74.

The military expenses of Honduras during the fiscal year of 1873 were $83,220.

The military expenses of Nicaragua and Costa Rica are not published, and are unknown.

None of the states own a single armed naval vessel that I am aware of

EDUCATION.

In Guatemala, by a late decree, primary education is made gratuitous and compulsory, as reported in my No. 299. The number of pupils in 1874 was 20,528.

According to the published report for 1874, the total amount expended by the government for public instruction was $64,779.05.

Guatemala has a polytechnic school, a university, two normal schools, a school of medicine and law, and several other institutions of learning in the capital. The polytechnic school and the two normal schools are directed by foreigners.

San Salvador has about 28,000 pupils, two normal schools and a university. Her educational system is believed to be judiciously organized. In the fiscal year of 1873, according to the official report, $50,067.99 were expended for public instruction.

In Honduras there are said to be 275 schools with 9,000 pupils, but I believe this to be an exaggeration.

There is a university and college in Honduras. According to the official report before me, the only item in the estimate for the fiscal year 1873 and 1874 for educational purposes, is as follows: "University, $720."

It is generally reputed that Honduras is more backward in point of education at present than any of the other states. The government of President Leiva has taken the most active steps to remedy this evil.

In Nicaragua there are 180 schools and 4,500 pupils. Primary education is gratuitous. There are three colleges and one university in that state. From the best information I can obtain, the government expends about $50,000 a year for public instruction. According to the last official report of the minister of public instruction of Costa Rica, there were 95 public primary schools and 5,755 pupils; there is one university and several colleges.

The government appropriation for public instruction for the fiscal year ending in 1874 was $72,137.98. Primary instruction is gratuitous and compulsory. It is believed to be very general and quite thorough.

While it will be observed there are many universities in Central America, it seems to be generally admitted that the standard of education is not high. The existing governments of Guatemala and San Salvador seem to be particularly zealous in the cause of public education, and, in my judgment, deserve great credit for the steps they have taken to promote this object. If their present zeal does not abate and their plans do not fail, it is probable the next generation in these two countries will have a fair primary education. Education in Central America has passed from the hands of the priests into those of the laity. I am glad to be able to say the study of our language has become more general in the colleges and universities as well as in private schools. I have used all my official and personal influence to encourage its study.

AGRICULTURE.

The agriculture of all the states, owing in part to the class of laborers used and to their prejudices against the use of new implements, is in a very primitive state.

The principal agricultural labor of the country is employed in the production of corn and beans (frijoles) for domestic consumption. As a general statement, it may be said that the whites and Ladinos are the proprietors, mechanics, merchants, professional men, politicians, and officials, and the Indians and Mestizoes are the laborers.

Nominally, agricultural labor is not compulsory. The wages of the laborer differ very materially in the different states, ranging, as in parts of Guatemala, from 12½ cents per day to $1.50, as in parts of Costa Rica. The Indian laborers all have their own little field, in which their wives and children labor. Most of them are in the neighborhood of towns. It is generally said that agriculture is most advanced and diversified in San Salvador.

The principal agricultural products for export are coffee, indigo, muscovado, cacao, and cochineal. Coffee is rapidly becoming the chief agricultural export, and I do not think it unlikely that in less than ten years the five Central American states will export at least one million sacks of coffee. Costa Rica began a successful cultivation first in 1829. Guatemala, San Salvador, and Nicaragua later followed her example. The coffee export of the two former states is already large, and there is an

annual increase of acreage in the coffee-planting. Both states have soils and climates well adapted to its successful and profitable culture.

The coffee-planters admit that, at the present price of labor in favored localities, they can produce coffee profitably at ten cents per pound. To illustrate how great has been the change in the agricultural products of Guatemala, San Salvador, and Costa Rica for export within a comparatively few years, I make the following statement from official reports:

The official report of Guatemala for 1858 shows an export of 13,000 pounds of coffee, valued at $1,040.

The official report of 1873 shows the export of coffee to the value of $2,408.106.85.

The official report of San Salvador for 1857 does not show that that state exported a pound of coffee. The official report of the same state for the fiscal year of 1873 and 1874 shows the value of coffee exported to have been $1,342,953.21.

The official report of Costa Rica for the year 1852 shows coffee was exported to the value of $609,784. The official report of 1873 and 1874 shows the exportation of coffee to have been $6,099,187.32.

Under Spanish domination the labor of Central America was employed in the production of cochineal, indigo, and the precious metals for export. Cochineal and indigo, although they have ceased to be the leading articles of export in Guatemala and San Salvador, are still exported in large quantities, and the latter article, indigo, continues to be, and in my judgment will long continue to be, the chief export of Nicaragua.

MANUFACTURES.

Although there is a considerable quantity of articles manufactured in the Central American states, there are no manufacturing establishments. Nearly all the articles for domestic use by the poorer classes are manufactured in the different states, and there is but a small excess for exportation. Good blankets, shawls, hats, boots, shoes, and hammocks are manufactured. To illustrate, the official reports for 1873 show the total export of manufactured goods from Guatemala to have been $54,125.50, and from San Salvador for the same year $51,327.72.

I think the people have a great deal of ingenuity as well as manual dexterity, and I hope that many articles of Central American manufacture may be exhibited at our Centennial Exposition. Some of them I am sure would elicit admiration.

CURRENCY.

The principal currency of Central America is coin. There are but three banks that issue bills, two in Costa Rica and one in Guatemala. Only two of the states coin their own money, Costa Rica and Guatemala, and their mints are not now in operation. The coined gold and silver of these two states is below the American standard, that of Guatemala 3 per cent., and that of Costa Rica 12½ per cent.

This debasement of the coined metals appears to be one of the chief reasons why so little American gold and silver, except in dimes and half-dimes, is in circulation in these states.

The following-named moneys constitute the body of the currency: the English sovereign, the coinages of Colombia, of Peru, of Chili, and the dimes and half-dimes of the United States.

What is called "cut money" is the chief currency in San Salvador for small transactions. In my judgment the deficiency of currency in

circulation is a serious impediment to commercial transactions. It is to be regretted that none of the governments of these states have yet chosen to avail themselves of the act of January 29, 1874, authorizing coinage to be executed at United States mints for any country applying for the same.

COMMERCE.

The commerce of Central America has made a rapid development within the last twenty years, and especially rapid when the character of the population is considered. The course of trade, as well as the chief article of export, has undergone a change during that period. The change in the former has been chiefly due to the establishment of the steam line on the Pacific by the Panama Railroad Company, to which the Pacific Mail has succeeded. Twenty years ago the larger portion of the exports of Central America found their outlet at Isabal, Omoa, Truxillo, and San Juan del Norte, on the Caribbean side. Now very little goes to those ports, and San José, Alajuela, La Libertad, La Union, Amapala, Corinto, and Puntas Arenas, all on the Pacific, are the chief ports for exportation and importation.

From 1821 (the time at which Central America separated from Spain) down to the establishment of the steam line above mentioned, British traders enjoyed almost a complete monopoly of the trade of Central America. Since that time, although Great Britain still retains a very large share, there has been a more general distribution among the commercial nations, and it is gratifying to know there has been an increase in favor of the United States, as the following tables show. They are taken from "No. 3, series 1874 and 1875, Commerce and Navigation, Bureau of Statistics."

Table showing value of total exports from and total imports to Central American states from the United States.

Central American states.	1862.	1863.	1864.	1865.	1866.	1867.	1868.
Imports	$144,161	$184,545	$592,387	$490,486	$745,588	$916,111	$1,122,189
Domestic exports	115,640	231,087	312,751	251,025	572,114	643,785	301,416
Foreign exports	39,951	22,768	38,516	16,755	32,033	97,820	14,795
Total	299,752	438,400	943,654	758,266	1,349,735	1,657,716	1,438,400

Central American states.	1869.	1870.	1871.	1872.	1873.	1874.
Imports	$3,165,056	$2,772,985	$1,528,399	$1,609,044	$1,981,322	$2,896,012
Domestic exports	2,516,224	2,404,271	589,505	1,406,855	1,279,329	1,380,515
Foreign exports	81,322	81,749	20,206	71,060	68,220	82,916
Total	5,762,602	5,259,005	2,138,110	3,086,959	3,328,871	4,359,443

From this table it appears our trade with Central America is already larger than it is with—

Denmark and the Danish West Indies	$2,910,337
Austria and the Austrian possessions	2,176,863
Portugal and the Portuguese possessions	2,351,896
Greece	516,836
Turkey	3,345,428
Sandwich Islands	1,666,800

and is but $64,945 less than with Sweden and Norway and the Swedish West Indies, $4,424,388. Chili and Peru together only have a trade with us of $7,358,742.

As the exported products of Central America are all tropical, and

such articles as are consumed in the United States, and as all the imports into Central America are such articles as are produced and manufactured in the United States, it seems obvious that our proximity ought in time, and with proper energy and skill, to give us control of this valuable trade. Might it not be promoted by reciprocity treaties?

According to Table No. 11 of my No. 196, of July 28, 1874, the total trade of the United States with Central America was $4,702,520.46, and the total volume of trade of the five states was $27,565,906.32.

Up to the present time it has been impossible to make up returns of the trade of the last year from official Central American sources. The few data in my possession indicate an increase in the volume of trade, but I regret to say not a proportionate increase in the trade with the United States.

There has been a marked increase of the export trade within the last few years. Mr. Levy, in his work on Nicaragua, puts down the exportation for the year 1870 from the five states as follows:

Guatemala	$2,785,000
San Salvador	2,880,160
Honduras	900,000
Nicaragua	1,024,030
Costa Rica	1,766,476
Total	9,355,666

According to Table No. 10 of my No. 196, the exportations of these states for the year 1873 were as follows:

Guatemala	$3,363,061 77
San Salvador	3,476,715 30
Honduras	1,140,000 00
Nicaragua	2,000,000 00
Costa Rica	6,619,645 52
Total	16,599,422 59

A gain in the export trade of $7,243,756.59 within three years. As soon as I can get the official reports, I will make up and forward, as last year, a report of the trade of each and all the Central American states for the last fiscal year.

I have, &c.,

GEO. WILLIAMSON.

No. 27.

Mr. Williamson to Mr. Fish.

No. 539.] LEGATION OF THE UNITED STATES,
Guatemala, August 14, 1876. (Received Sept. 12.)

SIR: I have the honor to inform you that Mr. Marco A. Soto left this city a few days ago to assume the presidency of Honduras.

He has been so often mentioned in my dispatches that there is but little to add concerning him. He is under thirty years of age, a man of amiable manners, quite sprightly, and is well acquainted, by his experience as minister of foreign affairs of Guatemala, with the method of managing public affairs in these countries.

It is announced here that all the claimants to the presidency of Honduras—Leiva, Medina, Arias, and Gomez—are favorable to Mr. Soto;

also that nearly all the principal persons and towns in that unhappy state have pronounced in his favor. No election has yet been held, but it is presumed, when Mr. Soto is fully established in power, the people of Honduras will be permitted to pass through that usual formality in this quarter. However that may be, it is well ascertained that the government of Guatemala, with the co-operation of that of Salvador, has determined to make Mr. Soto president of Honduras.

It is alleged by the government here that his assumption of that position will save that state from anarchy and will insure the peace for ten years. In my judgment, this act is the final consummation of the policy that promoted the revolution of Medina and declared the late war against Salvador. Barrios, Samayoa, and Soto composed the triumvirate that governed Guatemala. Honduras has been assigned to Soto. If the convention of Chingo had been carried out by Salvador, the assignment would have been made without war. Her government understood what was intended; resisted, and was overthrown. That of Leiva was powerless. Soto may be president of Honduras as long as he is supported by the arms of Guatemala and Salvador. He must take his orders from the former.

I have, &c.,

GEO. WILLIAMSON.

No. 28.

Mr. Williamson to Mr. Fish.

No. 547.] LEGATION OF THE UNITED STATES,
CENTRAL AMERICA,
Guatemala, September 3, 1876. (Received Sept. 28.)

SIR: I have the honor to make the following report of the present political condition of Central America:

The constituent assembly (convention) of Guatemala has met to frame a constitution, and has elected its officers. It is composed of the friends of the president and his prime minister, Mr. Samayoa. The several interests and aspirations of these personages are not likely to disturb the harmony of the assembly, it being well understood that the President is to have his own way in all measures. It is believed the constitution which the convention will adopt has been prepared by the government. My information is that it is to be short, and that its principal feature will be to fix the term of the presidential office so that the present incumbent will continue to hold his office for six years longer. He has now been President for more than three years. No one except the government people and the members seems to take the smallest interest in the convention. Nominally it has been called for the purpose of embodying in the organic law what are called the principles of the revolution of 1871.

The accompanying proclamation of General Medina states that no resistance to Mr. Soto assuming the presidency of Honduras will be made by the Medina party. General Medina and his friends, it was apprehended at one time, might give Mr. Soto trouble. Public allegations are made that the government of Guatemala quieted Medina's opposition by the use of money, which I must say is not at all improbable. There was no danger of resistance from any of the other various claimants to the presidency of Honduras.

Mr. Soto is at Amapala, preparing to go to the capital, where he expects to arrive about the middle of this month. His proclamation, to be issued when he assumed the executive office, was prepared before he left here. It has probably been issued at Amapala before this time.

President Zaldivar has restored order and maintained the peace in Salvador. He seems to be succeeding well, so far, in satisfying the politicians and keeping the people quiet. No apprehension of any disturbance in that country for some time is now entertained.

Nicaragua is still under arms without any well-founded reason. The revolutionists, Jarez and Selva, have neither resources nor men at present. The enemies of the government of Nicaragua say it is doing exactly what they wish by expending large sums in useless military displays. They expect that government to create so much dissatisfaction by these heavy expenses that a revolution in the heart of the country will be successfully initiated. I should not be greatly surprised at that event, but my latest information from reliable sources says the government of Chamorro is both strong and popular.

Ex-President Guardia has returned to Costa Rica. The provisional government of Herrera is still in power there, but it is presumed that Guardia will either assume the presidency himself or have his son-in-law, a Mr. Sisano, elected to that office. The vexatious question of boundary with Nicaragua will then again be brought forward and war threatened. I do not apprehend there is any danger of hostilities beginning (if they begin at all) until, perhaps, about the first of January.

* * * * *

You will see from the foregoing report that there is, in my judgment, a prospect of Central America remaining at peace for several months. Here coming political events do not cast their shadows before, and no one can venture to say what a day may bring forth.

I have, &c.,

GEO. WILLIAMSON.

[Inclosure.—Translation.]

José Maria Medina, provisional president of the republic of Honduras, to his fellow-citizens:

In my manifesto of June 11th, I recorded, in a clear and determined manner, my firm resolution not to return to the exercise of supreme power, even should I be called thereto by a general election. Up to the present I have seen no reason which would induce me to alter this determination; and, in consequence, I have refused to accept the power which passed into my hands by virtue of the decree issued on the 12th instant by the Ex-President, Don Crescencio Gomez. The republic is, therefore, without a head, and ought not to remain in that condition, as such a situation will lead to all the horrors of anarchy. In order that this danger may cease to exist, it is necessary that the government should be intrusted to some citizen who by his honesty, his talents, and his patriotism may be worthy of such an elevated post.

Fortunately, these qualities are united in our fellow-citizen Don Marco Soto. Young, of good ideas, without party hatreds, and animated by the best sentiments, I am convinced that in occupying the chief magistracy he will know how to fulfill, to the satisfaction of all, the just hopes of patriotism and of the future. Señor Soto has further merited the confidence of the governments of Guatemala, Salvador, and Costa Rica; he has been proclaimed by some of the towns, and therefore, for these reasons, I have invited him to assume the presidency of Honduras.

For my part, I compromise myself to recognize him in that character, and I offer him from the present moment my adherence and respect. Give him also your important co-operation, and let us force all motives of discord among us to cease, forgetting forever the miserable petty hatreds which have divided us.

As I am desirous of clearing away any false ideas which might tend to lead public opinion astray, allow me to protest against the iniquitous rumor which has been circulated that the government of Guatemala pretended to dominate us. This is not

true; and its falsity is proven by the frank and sincere protestations which that government has so often made, to the effect that it will ever respect the autonomy and institutions of these states.

May the government of Señor Soto be inaugurated under the auspices of union and peace; may he encounter no difficulty in bringing the mission intrusted to him to a happy termination; and may he, as far as possible, contribute efficiently to realize the ideas of Central-American policy, viz, the national union. Such are the wishes of your fellow-citizen and friend,

J. M. MEDINA.

GUALSINSE, *August* 18, 1876.

CHILI.

No. 29.

Mr. Williamson to Mr. Fish.

No. 8.] LEGATION OF THE UNITED STATES,
Valparaiso, July 19, 1876. (Received August 31.)

SIR: My official residence for the past six years in Peru and Chili gave me ample opportunity to observe the laws and customs of the people. I have the honor, therefore, to submit to the Department a brief review of the political parties in Chili from the year 1851 to the present time.

During the last two months have been held throughout Chili the elections for the several municipalities of the various departments of the republic, of senators and representatives, and on the 25th ultimo that of President, this last resulting in the choice of Señor Don Anibal Pinto chief magistrate for the constitutional period of five years from the 18th of next September.

With this single announcement in former years, indeed during the entire history of Spanish America, this dispatch might have closed, so notorious being the fact that heretofore the masses had little, if any, participation in the choice of their rulers, that the interest of such events was purely local, and, unless to fill a paragraph, scarcely chronicled in a foreign periodical.

I am, therefore, probably the first to place on record in the Department the testimony that Chili has now taken a stride far in advance of her sister states, and if the promise of progress in self-government now evinced by the people be realized, she will soon have little to envy in the political states of older nations.

I may be pardoned in giving a very brief retrospect of her history, which will at least serve as a frame for the more pleasing picture she now presents us.

Until 1851 the Presidents of Chili were either fortunate generals or statesmen of no extraordinary ability, governed by their chief ministers, who invariably succeeded them, and by cliques of the conservative and ultramontane parties, then the dominant ones of the country.

In 1851 General Bulnes, wishing to force upon the nation his minister, Don Manuel Montt, plunged the country into the most sanguinary civil war ever known in South America, terminating, in the battle of Longomilla, in the fulfillment of Bulnes's wishes and the presidency of his favorite; but the party which opposed this choice, and which had been slowly and steadily increasing, though a minority, was a dangerous one, comprising the youth and talent of Chili.

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Montt, gifted with great ability and vast tenacity of purpose, earnestly seconded by his minister, Varas, able as himself, and by a Congress of his own election, did all in his power during two successive administrations to crush out the growing and fast-strengthening liberal party. Public meetings were disbanded by armed force, and the prominent men attending those meetings exiled, either forcibly or self-imposed. The colleges and the capitals, the lecture-rooms and saloons, of the United States and Europe were for years frequented by the most talented of young Chilian lawyers and others respected here for their wealth or social position, all of whom returned with hatred more intense toward the existing state of things, and with an enlarged liberal political experience, and a still greater indifference to the church teachings and traditions in which they had been educated.

The tension exerted by the church party was too great for even Montt. Trivial causes burst the bonds that united them. His administration was compelled to act on the defensive, and the fire, long smoldering, at last broke out in flame to gladden the hearts of all lovers of liberal institutions, and never again to be extinguished in Chili.

The opposition continued to increase, and when Montt's term of office expired neither he nor his party dared brave public indignation to the extent of transmitting the government to his minister, identified as he was with his chief in every act of his administration; and Perez, nominated as his successor by some fifty self-named electors, was chosen with but slight opposition.

The latter proved false to those who elevated him, and during the ten years of his two administrations Chili can scarcely be said to have been governed, unless the aphorism of Lord Bacon be true, that "the best government is that which governs least."

During these ten years of rest, however, Chili was schooling h self for her future destinies.

The apathy of the Perez administration became distasteful to the people. Even Spain came and battered down part of Valparaiso without a protest scarcely from the government.

For the first time great public meetings were convened in the plazas and elsewhere; rival newspapers were spread broadcast over the country; the shackles which until now had trammeled the press were gone, and it became then, almost what it is now, simply licentious.

Parties long disunited began to coalesce. The Montt party, long under the ban, fraternized with its former victims, the radicals, and conjointly their candidate was nominated for 1872.

The ultramontane party was still gathering strength, while the conservatives, their necessary and natural allies, retained their great prestige. The one possessed talent and that unflagging energy which has always, here as elsewhere, characterized it. The others monopolized the wealth of the country. These two parties united upon the favorite of the government, and the result could hardly be doubtful. The canvass was an earnest one. The church party dreamed of a millennium, and the opposition foresaw a repetition of the decade of Montt.

Don Federico Errázuriz was elected by an immense majority. The church seemed to think that a new Messiah had been born to it, and Chili for a moment held her breath and looked tremblingly toward the future. *It was only for a moment.*

Up to this period, the Department will have observed that Chili, governed exclusively by the church and conservatives, with a brief interval during the administration of Montt, had advanced but little in the way of self-government.

Don Federico Errázuriz, the present President, a man of extraordinary ability, fearless and energetic beyond all his contemporaries, had scarcely assumed the reins of government when, whether from conviction or policy, he gave ample evidence that those who had elected him had been deceived. One by one reforms, at his instigation, were being presented to Congress. His minister of justice, the friend of the ultramontanes, was forced to resign, and at the close of the second year of his administration the country discovered, to its utter astonishment, that the President was far in advance of all reformers, and was virtually the chief of the liberal party.

Reform followed reform. Again party lines were broken up. The church found itself not only in opposition, but, if we believe its organs, persecuted. The radicals were voting with the government. The climax came in the attempted abolition of the fifth article of the constitution, which makes the Roman Catholic religion the exclusive one. The grave-yards were the first time opened to the Protestant as to the Catholic, and the Protestant might marry a Catholic without his wife being looked upon as a concubine or his children as illegitimate.

The accumulated vote was adopted, thus favoring minorities, and the qualification for voters was changed from owning property worth two hundred dollars to that of being able to read and write. The term of electing a President of the republic was reduced to a single term of five years. Abroad Chili maintained intact her well-sustained credit, and finally, one year ago, when it became necessary to determine upon the future President, the radicals found that their platform was identical with the policy, now well proven, of the present administration.

The church party, still a unit, was of itself unable to elect a few representatives without the aid of the malcontents who were opposed to the present government; its leaders, therefore, united their strength on Señor Vecuña Mackenna, the most voluminous writer in Chili, and of indefatigable energy, and nominated him as their candidate for President of the republic.

The government convened a convention, composed of a thousand distinguished citizens, and, notwithstanding that all the influence of the President and his cabinet was thrown into the balance in favor of Don Anibal Pinto, this gentleman was nominated only by a majority of sixty.

For fourteen months, until the 25th ultimo, the canvass was unparalleled in the history of South America; almost daily meetings were held by one or the other party. It is impossible to deny that the government has used its vast power to influence the election, but never before in Chili has more ample liberty been given to an opposition.

The result was as already stated—Pinto was elected; but the experience of the political canvass just closed will not be lost. Chili has advanced very many years, and I am satisfied that the next President will be as fairly and honestly elected as has been the Chief Magistrate of our own country. This is saying much for Chili, for one must remember the origin and the influence brought to bear during long years against everything like progress, or even a fair expression of public opinion.

The newly-elected President is a man of refined education, high social position, and his antecedents are a guarantee that the honor of Chili, her progress and her welfare, will be safe in his hands. His tendencies are unquestionably anti church or ultramontane, and no doubt during his administration the union of church and state will be dissolved.

I have, &c.,

D. J. WILLIAMSON.

No. 30.

Mr. Fish to Mr. Ibañez.

DEPARTMENT OF STATE,
Washington, June 5, 1876.

SIR: The Secretary of the Treasury having expressed a desire to be informed as to whether an export-duty is exacted by the government of Chili on wools exported therefrom, and having suggested that you might be able to furnish the desired information, I have the honor to request that you will communicate to me such information upon the subject as may be in your possession.

Accept, &c.,

HAMILTON FISH.

No. 31.

Mr. Gonzalez Errazuriz to Mr. Fish.

[Translation.]

LEGATION OF CHILI,
Philadelphia, June 11, 1876. (Received June 13.)

SIR: I have the honor, in the name of the minister, to acknowledge the receipt of your excellency's communication of the 5th instant, and, in accordance with your desire expressed therein, to inform you that wool, both carded and uncarded, is exempt from all customs duties in Chili, and is imported and exported freely.

I avail, &c.,

FRANCISCO GONZALEZ ERRAZURIZ.

CHINA.

No. 32.

Mr. Avery to Mr. Fish.

No. 92.] LEGATION OF THE UNITED STATES,
Peking, August 23, 1875. (Received October 20.)

SIR: Referring again to the late assaults upon and placards against foreigners in and about Peking, I now send a translation of the proclamation issued under the orders of the Tsung li Yamen, with a view to preventing such things in future.

Accompanying the Chinese text of this proclamation, which was furnished me, on application, by the Yamen, is a list of thirty-six places where copies were posted. This is not as wide a circulation as could have been desired, but the tone and language of the paper are satisfactory.

I have, &c.,

BENJ. P. AVERY.

[Inclosure.—Translation.]

The military commander of Peking herewith issues a prohibitive proclamation:

Having been informed by the Lsung li Yamen that certain ignorant and evil-minded persons had posted placards in the vicinity of the three front city gates, both without and within the wall, insulting and threatening foreigners; and that at Tien Chiao and other places assaults have been made upon foreigners and their horses; and that the guilty ones have by the military posts been handed over to that Yamen for investigation and punishment, and that in case of a repetition of such occurrences in future, the offenders will not only be most severely punished, but the local officials within whose jurisdiction these outrages may occur will be degraded, in order to put a stop to such things:

Now, therefore, this proclamation is issued in order to warn the local officers and soldiery at each post that, in case of a repetition of such lawless acts, the parties implicated must be arrested and brought to this Yamen for severe punishment, and no leniency will be shown.

After this prohibition, do you, people, Manchus and Chinese, conduct yourselves with propriety, and go not in that former way to the bringing of punishment upon yourselves.

Let all take heed.

Disobey not this special order!

No. 33.

Mr. Seward to Mr. Fish.

No. 11.] HONG-KONG, *February* 2, 1876. (Received March 7.)

SIR: I have the honor to transmit to you herewith a copy of a dispatch which I am addressing to Vice-Consul-General Bradford in regard to a scheme for a railroad at Shanghai. I trust that the views expressed will meet your approval.

I have, &c.,

GEORGE F. SEWARD.

[Inclosure.]

Mr. Seward to Mr. Bradford.

No. 4.] HONG-KONG, *February* 2, 1876.

SIR: I have learned that an engineer has arrived from England to prosecute the construction of the railroad from Shanghai to Woosung. It is altogether likely that the Chinese authorities will object to the work and appeal to you to restrain any of our countrymen who may be concerned in it. I think it well, under the circumstances, to state to you my views as to the attitude which you should assume.

The actual situation I understand to be this: The ground for the line has been purchased and paid for. The termini are Shanghai and Woosung, which latter town is ten miles below Shanghai, at the junction of the Whangpoo and Yangtsze Rivers. A line of railroad over this route would serve the convenience of foreigners in going to and from shipping detained at Woosung by a lack of water on the bar. There is a considerable Chinese population at Woosung who would assist in supporting it when opened. The ground was bought ostensibly for a maloo, (or horse-road,) and I believe that the authorities knew that rails would be laid down for a tramway.

The leading motive of the promoters of the enterprise is a desire to exhibit to the Chinese a railway in practical operation, and thus to hasten the moment for a general introduction of railways into the empire.

Every step taken thus far has been regular and defeasible, saving, perhaps, that in a strictly moral point of view the ultimate object should have been declared from the outset. That this would have defeated the enterprise there can be no doubt.

I am free to say that I sympathize most keenly with the promoters. They are striving to confer a benefit upon China. Their spirit is such that they will be perfectly

willing to vary the plans to meet the views of the Chinese so far as these are founded upon reason or even upon prejudices, which are strongly held, and saving, always, demands to abandon the undertaking. They believe they have a right to build a road over ground which they have bought and paid for.

The promoters have been largely our countrymen. The corporation has become British.

Under these circumstances our office at Shanghai may now properly withdraw from the leading position which it has heretofore taken. Such position would not indeed be expected under the circumstances, and might be offensive to the British authorities.

But sympathizing with the purpose of the promoters as I do, and as I believe our Government will, I advise you to co-operate with the British consul and your colleagues generally in their efforts to secure the peaceable establishment of the line.

The arguments which you can best use will be of an expostulatory sort. You may say to the native authorities, why do you object to the enterprise? It is undertaken for the general benefit. It can harm no one. The procedure which has been pursued need not be considered a precedent for the future. You can always interpose treaty stipulations against the buying of lands toward interior points for other enterprises of the sort. By what right do you attempt to interfere with the use of lands acquired by foreigners? Why will you persist in a course which will seem strange and inexplicable to the people of western countries? Such and other considerations of the sort you can freely urge, and always as a last resort say that if they desire to restrain the enterprise the only practical course is to take legal action in the British court.

There will be no wisdom in assuming more of right in the premises than we can do with justice. I would avoid any declaration which would call in question the sovereignty of the Emperor over the soil and the right of his government to control works of a public nature. Eastern peoples are sufficiently likely to consider us as aggressive in the pursuit of our purposes and careless of their rights without our giving them actual facts upon which to support such a belief.

I wish every success to your efforts and those of your colleagues, and will do all I can to aid you within the lines I have laid down, and subject, of course, to the views of the Government.

I have, &c.,

GEORGE F. SEWARD.

O. B. BRADFORD, Esq.,
United States Vice-Consul-General.

No. 34.

Mr. Seward to Mr. Fish.

No. 13.] HONG KONG, *February* 9, 1876. (Received March 23.)

SIR: In my trade report for last year I mentioned the steps taken by the Chinese government to open a coal mine in the province of Chihli. I spoke also of the prospect that mines would be opened in Formosa. I have now the honor to advise you that the agent sent from Chihli to procure miners and machinery has returned, having, I believe, discharged this part of his duty. I have also to advise you that I learn here that an English engineer has reported favorably upon the Formosa mines, and that an order has been sent for a limited supply of machinery with which to work them.

A third scheme to open a mine or mines near Hankow or Kinkiang is taking form. I have no particulars of a definite sort to communicate in regard to it. Coal-measures occur near the Yangtsze River in various places, and notably near the Poyang and Tongting lakes.

I doubt whether the coal of Chihli, of the Yangtsze, or of Formosa, can be sold for a considerable period yet in the market of Shanghai upon favorable terms as compared with that of Nagasaki. Doubtless, however, the Tientsin steamers will procure some part of their supplies at that port from the Chihli mines. The Yangtsze steamers actually take in large supplies of coal at the river ports, and would take more if

the quantities available were greater and the cost less. I have always doubted whether coal occurs in Formosa in a favorable way, but, until the mining has been carried on there in a more efficient way than heretofore, it will be premature to speak positively upon the point.

The coal supply of this part of China comes largely from Australia, but that of Nagasaki is now finding its way into the market.

A very superior steaming-coal is found in Saghalien. An attempt to work it was made some years since by an American house, but failed owing to the lack of a good port at the place of shipment, of suitable machinery at the mines, and to the distance to the China markets. It is said that the Russians will establish a line of steamers shortly to bring down the produce of the Saghalien mines, and to take back to the Siberian ports teas for overland transportation, and other Chinese produce. If they can establish a round trade of the sort, their coals may perhaps find a remunerative sale in China.

The disposition of the government to exclude foreigners from mining enterprises still prevails. It is possible even that an effort will be made to monopolize the coals produced in China for the use of native vessels of war and of native merchant-ships running in competition with foreign vessels. The wide sources of supply and the operation of the laws of supply and demand will, I apprehend, soon break down such attempts, while sooner or later the government must learn that its best policy is to encourage enterprises of foreigners as well as those of natives. But, while learning this lesson, they will make many expensive and losing essays of their own, and fritter away much valuable time.

I have, &c.,

GEORGE F. SEWARD.

No. 35.

Mr. Seward to Mr. Fish.

No. 21.] HONG KONG, *February* 29, 1876. (Received April 4.)

SIR: The trade-dollar, as I believe, was coined to afford another outlet for the silver produced from our mines. It was not supposed that it would become largely current at home, but was intended for shipment to China, where it was thought it might take the place of the Mexican dollar.

In my trade report for last year I spoke of the difficulty of introducing it into Northern and Central China. There are not 500 of the new coins in circulation north of Foochow. In Southern China it has not displaced the Mexican or found a market to any great extent; I doubt whether it can ever come into general or even extensive circulation. In point of fact, the Mexican dollar, introduced twenty years ago, is found only at the ports open to foreign trade, and not at all of these.

We have in China the singular spectacle of a great trading people who may be said to be devoid of a currency. The cash, which varies from 500 to 1,500 to the dollar, is current for small transactions, but it is too bulky for large ones. All considerable settlements have to be made by an exchange of bullion or mercantile paper. There are no issues of paper money by the government or by banking corporations.

The difficulties of the situation are aggravated by the fact that the scales used in weighing bullion vary in each considerable city.

The capacity of this empire to absorb silver bullion is well understood. I imagine that its capacity to absorb silver in the form of coin issued by the government would be far greater. Bullion is so inconvenient as a medium of exchange, that mercantile paper is made to take its place wherever possible, and the quantity actually retained for commercial purposes at any one point is known to be small. The convenience of a silver coinage would naturally call into use greater quantities of the metal, while the great magnitude of the empire, its immense population, the universal distribution of trading interests, the lack of rapid means of intercommunication, and the hoarding tendencies of the people are further elements which must not be overlooked in considering the extent to which coins of unvarying value issued by the central government would be taken up.

The advantages which would result to China from the establishment of a convenient, uniform, and sound currency cannot be overrated. It would put new life into all the channels of commerce and bring about a great and rapid development of trading interests. It would enrich the people, and, as a consequence, the government, and in particular form a foundation upon which the state might build up a system of finances of an advanced order. It is pitiable to see this empire borrowing from foreign merchants paltry sums of one, two, or three millions of dollars, specially pledging for the repayment of such loans this or that branch of her revenue.

* * * * * * *

Chinese statesmen of the new school are disposed in a timid way—for they do not yet feel individually safe in taking up the advocacy of progressive measures—to adopt many western ideas; and it is very possible that schemes which will appear almost utopian to the many foreigners who have not yet learned that China is beginning to move, may admit of a comparatively easy accomplishment. At any rate, the objects in view in this instance are of such importance, that we ought to make the trial, even in the face of discouragements of a grave nature.

If you approve the plan, I suggest that the Secretary of the Treasury be asked for information as to the cost of establishing a mint of moderate magnitude, and the expense of working it, giving plans and descriptions of the buildings and material, and a statement of the staff required.

Would it be possible for the government to secure from a mint a direct income sufficient to support it?

I have, &c.,

GEORGE F. SEWARD.

No. 36.

Mr. Seward to Mr. Fish.

No. 27.] HONG KONG, *March* 11, 1876. (Received April 26.)

SIR: I have the honor to hand to you herewith a circular-letter which I am addressing to our consuls in China in regard to that large and important class of cases presented to the consulates and legation by our fellow-citizens who are missionaries in this empire, and have suffered grievances at the hands of the Chinese populace or officials, or both.

I hope that its purpose, scope, and temper will meet your approval.

You will observe that I ask for expressions of the views held by the

missionaries. I do this because I have found them a sensible and practical body of men, and, as they must have considered the general subject, their opinions should prove specially valuable. I am in particular anxious to see whether they may not be disposed of their own motion to seek redress in the great majority of cases by direct appeals to the native magistrates. If we could establish this system instead of the present one, under which these troubles are brought first to the consuls, the whole aspect of the matter would be changed.

I have, &c.,

GEORGE F. SEWARD.

[Inclosure.]

Circular-letter of Mr. Seward to United States Consuls in China.

HONG-KONG, *March* 3, 1876.

SIR: Upon assuming the duties of the ministership, I find that a majority of the grievances coming to me for representation to the imperial government are those of our citizens who are missionaries. This fact leads me to address to you, in common with our consuls in China generally, some remarks as to this class of cases.

It is entirely true that a large part of the business of the legation in the past has been of this kind. At all the ports in China, Shanghai only excepted, the missionary residents coming from America largely outnumber all other citizens of the United States. Probably more than one-half of our whole representation in China are the messengers of the Christian system. These belong to a class who, in the pursuit of their work, are likely to meet difficulties. They go into the interior to preach and to reside, while our merchants confine their work essentially to the ports. Their business is to displace existing religious systems, and in doing so they must necessarily arouse antagonism. With them zeal is a duty, and the conservative disposition which grows up when property is at stake is wanting. In many of our mission establishments the central control is not strong, and each individual, be he discreet or not, is more or less free to work out the bent of his disposition.

Looking to these facts it may well be expected that for the future, as lately and in the past generally, missionary cases will continue to call for a great share of the efforts of the legation.

If such a remark should be predicated of any legation at our own capital, it would attract general attention, and the whole tendency involved would be subjected to anxious examination.

In making these remarks I recognize fully the leading facts, first, that the sympathies of the American people wait upon the efforts of the missionaries; second, that their efforts tend undoubtedly to the moral and physical advancement of the peoples among whom they are so generously expended; and, thirdly, that in my observation our missionaries are thoroughly imbued with the American idea that church and state should be separate, and that the former should rely upon spiritual weapons in conducting spiritual contests.

The fact remains, however, that missionaries do from time to time get entangled in difficulties. They are assaulted, their converts maltreated, their mission-houses, chapels, dispensaries, and book-shops are pillaged and destroyed, or if none of these things happen, they find difficulty in securing houses and lands from which to carry on their work. In all these cases they appeal to the consuls, and as a last resort to the legation. It will continue to be so, so long as the West is Christian and the East adheres to other systems.

We are all agreed, then, as to the facts, and in regretting the situation which virtually establishes our political representation as the right arm of the propagandists of the Christian faith. What shall be done to make this condition of things as little to be regretted and as little awkward as possible?

I may say that the Government of the United States is not likely to forget that a missionary has the rights of an individual, and that while we do not bring the power of the state actively into the advocacy of the Christian system, we cannot consent that that power shall be exercised anywhere against our people who are its adherents, because of their religion, or that they shall be subjected to abuse for this reason. We accord freedom of conviction to all within our borders; and within the bounds of a just discretion, we appeal to all mankind to favor the same principle.

But there is always this just discretion to be observed, whether it be on the part of the state, the officer, or the missionary. The missionary of right views would not readily

pardon the officer who should fail to grasp a given case in all its bearings, and should by the exercise of undue zeal, or undue caution, jeopardize his work. The liberal Christian desires only that the state shall give the religious element an open opportunity. And so in turn the state and the officer may ask the missionary to have some of the "wisdom of the serpent," to be forbearing and long-suffering, to avoid places which are dangerous, to deal respectfully with cherished beliefs, erroneous though they be, and generally to carry on his work with such good management, good feeling, and tact, as to arouse the least possible animosity, and to draw the Government as little as may be into the arena of discussion and conflict.

This letter has, then, this purpose, to represent to the missionary the ground which his Government and its officers may rightfully take. It is a plea that they shall not embarrass us unduly, and that they shall yield to us consideration as they expect it from us, to the end that the best results for all may be worked out.

I wish you to call together the missionaries at your port and to read this letter to them, or to bring it to their attention in some convenient way, and to say that I shall be glad to receive an expression of their views upon the subject, to be communicated to me in such manner as you and they may see fit.

I add a word to yourself as to the course to be taken in missionary troubles. Be content in searching out the facts and in putting these before the native authorities. Make no explicit demands for this or that mode of settlement. Deal with all cases as if the authorities were well disposed, and with patience, avoiding in every way all that is likely to cause unnecessary irritation. Procure settlements as promptly as possible, and do not scrutinize the terms over-rigidly. Refer as few cases as possible for the action of the legation, but keep it fully informed of each step of your procedure. In fact, exercise on your part at all points that discretion and tact which we ask from the missionaries, and for the lack of which no officer can be entirely excused.

You will be at liberty to give a copy of this letter to any one wishing it. In doing so, however, it must be understood that it is not open for publication.

I have, &c.,

GEORGE F. SEWARD.

No. 37.

Mr. Seward to Mr. Fish.

No. 31.] HONG-KONG, *March* 21, 1876. (Received May 27.)

SIR: The exchange of the ratifications of the Peruvian treaty with China has been completed within the last six weeks, the Chinese text, which had been accidentally retained in Lima, having been received at Shanghai just after the close of navigation at the North.

The great object of Peru in procuring a treaty was to promote Chinese immigration. This had been virtually stopped by the action taken at Macao, here in Hong-Kong, and by the Chinese authorities. The Peruvian minister indeed did not hesitate to offer more favorable terms for Chinese immigrants than have been granted by any other state, going so far as to agree to repatriate such Chinese as desire it, whose contracts have expired and who are unable for any reason to pay their own way back. They will be admitted to the courts and treated as well generally as the peoples of the most favored nations.

Following up the policy of encouraging immigration, the Peruvian government is understood to have agreed to subsidize a line of steamships to bring the Chinese to her shores. So nearly as I can learn, the subsidy to be granted will be about $250,000. Beyond this the government will pay to the steamship company an agreed price for each laboring Chinese landed in Peru, the coolie receiving his passage without charge and the government recouping its outlay from the farmers who take the coolies under contracts to labor for one or more years. The government, it is said, proposes to guarantee to the coolie that the contract-price of his labor shall be not less than eighty cents a day.

It is likely that the first steamers will be laid on within the next six months. I believe that the flow of migration by them will be very great,

to the great advantage of Peru, whose want of labor is pressing, and the great advantage of the unemployed class here. Other South American states are in need of labor, and this they are likely to get from here in increasing proportions if the Peruvian scheme shall prove successful.

An element of promise in the Peruvian scheme is a proposal to give to the steamers outward-bound cargoes of guano. As they must otherwise go in ballast or with a partial complement of passengers and cargo, the freight upon the guano could be reduced to a very low point. The guano would, at a low figure, find a ready sale, probably displacing to an extent the bean and pea cakes of Manchuria, now used for fertilizing purposes in vast quantities.

It is greatly to be hoped that the Peruvians will live up to their treaty engagements with the Chinese. From my intercourse with the late minister, Mr. Garcia, and the present chargé d'affaires, Mr. Elmore, I have confidence that they will.

It is also to be hoped that the ministers of China who have been appointed to visit Peru shall not unduly embarrass the republic by sending to their own government reports of an overstrained character. The only effort which China need make is to see that the treaty is carried out. It promises to her people all reasonable protection, and they may be left to decide for themselves whether they can better their condition by the exchange of residence. I have touched on this point in a previous dispatch, and mention it again because the disposition exists with certain Chinese statesmen to make capital out of the alleged abuses practiced upon their countrymen abroad, a belief which they are naturally prone to take up. It is our part, under these circumstances, in the interest of our relations with the empire, to dispute all unjust allegations of the sort.

I have, &c.,

GEORGE F. SEWARD.

No. 38.

Mr. Seward to Mr. Fish.

No. 34.] HONG-KONG, *March* 22, 1876. (Received May 27.)

SIR: At present all Chinese passengers starting for America go from this port. I find upon an examination of the colonial papers that during 1875 their number ran up to 19,168. This emigration exceeded that of 1874 by 3,180. The increase to all countries was 51 per cent. Less than 2 per cent. of the emigrants of 1875 to America were women.

It will be seen that the flow of Chinese to the United States is small in comparison with that of people from the European countries. Furthermore it does not increase greatly. Speaking from memory I believe that the average migration of the last five years is not more than twice that of the corresponding term twenty years back.

The Chinaman is becoming more and more disposed to seek fields for his industry abroad, but he is deterred from going to America because of political feeling there, because of unfavorable legislation, because of the difficulty of setting up family life there, and lastly and mainly because, as I believe, he shrinks from contact with our restless, energetic civilization. He would rather go to the districts south of this, Siam, the Straits, and Java, where he is indisputably more active and acute than the natives, or to regions like some of those of Australia, where he can found colonies in places not yet sought out by white men.

It is certain that a great immigration of Chinese into our Pacific States would give rise to grave political difficulties. But to my mind it is quite as certain that no such immigration will take place. The opportunities open to the Chinamen in other directions are prehaps nowhere else so lucrative, but they are more inviting to him for the reasons I have given. It is to be said further that, while he may earn a higher wage in America than at home, his expenses too are higher. He pays here less than a cent of our money for his sandals; his boots cost him in California perhaps five dollars. A mere comparison of the rates paid for labor here and there, leaving out of view other considerations, would lead to very wrong conclusions. And again his country is not so overpopulated as is believed. Under an improved system of administration, which would embrace the working of mines and minerals, the construction and operation of railroads, &c., there would be a demand at home for all the labor that would be available. As things are, there are perhaps as few persons pinched by want to be seen in the streets of most Chinese cities as in those of the cities of Christendom. If, then, the people of the Pacific States need Chinese labor, they may safely encourage immigration; when they cease to need it, the Chinese will cease to come to their shores. I mean by this that when the call for labor ceases to be an urgent one, the Chinaman will stop his migration in that direction. Even with a great call for labor in all our western and southern country, he cannot be induced to go to either.

I have, &c.,

GEORGE F. SEWARD.

No. 39.

Mr. Seward to Mr. Fish.

No. 52.] LEGATION OF THE UNITED STATES,
Peking, May 3, 1876. (Received June 19.)

SIR: I have the honor to recur to the matter of the railway now being constructed at Shanghai, of which I wrote you in February, and to transmit to you a letter and its inclosures which I have received from Mr. Bradford, and my response.

You will see that Mr. Bradford has very carefully observed the instructions which I gave him in February; a copy of which I sent to you at the time.

I have not altogether approved the course taken in starting this enterprise. It presents, nevertheless, so many elements of promise, that I have felt disposed to give to it such support as I could, without departing from sound principles. In this I have been encouraged by the indications that the Chinese authorities are, from behind the veil, looking with interest for the result.

Under these circumstances I hope for your approval of the course which I have pursued.

I have, &c.,

GEORGE F. SEWARD.

[Inclosure 1 in No. 52.]

Mr. Bradford to Mr. Seward.

No. 470.] UNITED STATES CONSULATE-GENERAL,
Shanghai, April 22, 1876.

SIR: Inclosed I have the honor to hand you, in duplicate, a copy of my correspondence with Fëng, Taotai, at this port, on the subject of the railway to Woosung.

I am, &c.,

O. B. BRADFORD, *Vice-Consul-General.*

[Inclosure 1 in inclosure 1 in No. 52.]

Feng, Taotai, to Mr. Bradford.

4TH, 3D MOON. (March 29, 1876.)

As foreigners have presumed to build a railroad to Woosung, I have frequently called upon and requested Her Britannic Majesty's consul to stop the work on the road, but he has not agreed to do so. Some responsibility in the matter rests with his excellency the United States consul-general. I therefore have a few things to say below, and I have to request that you will, without delay, give orders for the work on the road to be stopped until an answer can be received from Peking, and have to request that you will favor me with an answer.

First. To build a railroad from Shanghai to Woosung and run a steam-engine on the road is not only not in accordance with the expressed will of, but it is a direct insult to, the government.

Second. In every country all public works, including the making of roads, is done by the authority of the government. Examine the globe, country by country, and there is no nation that would allow the people of any other nation to come in and of their own accord build a railroad on their territory. Take the case of Japan; she borrowed money from a foreign country and built a railroad, but it was done by her own authority. If the Chinese government should allow men of other nations to come upon her territory and build a railroad, all the nations under the sun would laugh at her. Moreover, if this precedent should be established, I apprehend that other nations will not acquiesce in it.

Third. The attempt to build in England or America a railroad that should injure the property of the people, or interfere with the public roads or water-courses, without the permission of the constituted authorities, would not be allowed.

Fourth. When persons from one country become the real possessors of real estate in another country, such real estate is subject to the laws of that country, according to treaty stipulations.

Fifth. The treaty between England and China nowhere grants the privilege of purchasing land for the purpose of making a railroad, neither does it specify that a road can be built from Shanghai to Woosung.

Sixth. The railroad which has thus far been built has already shut up or damaged many public roads, and interfered with the water-courses, and greatly inconvenienced those who live near it.

Seventh. The bridges which have been built over the creeks interfere with the boat-traffic.

Eighth. In the 11th year of Tung Che, 1873, Mr. Alabaster and your excellency, in behalf of some foreigners, wrote to the Taotai asking his sanction to the purchase of certain lands. At that time, if that foreigner knew perfectly well that land for an ordinary road could not be obtained without the sanction of the local officials, how much more a railroad.

Ninth. At the time application was made to purchase land, it was for an ordinary ma-loo.

Tenth. The Taotai's letter, Tung Che, 12th year, 2nd moon, 28th day, (March 26th, 1873,) did not grant the privilege of enlarging, adding to, or diverting from the object therein specified, or a right to levy a toll on the road.

Eleventh. The consul, in applying for the right to purchase land, did not explain to the former Tantai the real object that the company had in view in purchasing land (for a road.) If the Taotai had known that the road was intended for a railroad, on which to run steam-cars, he never would have given his consent.

Twelfth. Your excellency and Mr. Alabaster, at the first, applied for land to make a ma-loo; therefore the Taotai stamped the deeds. Now, to change the design and to build a railroad is at variance with the design specified in the joint letter of application. Therefore the acts of the Taotai, in stamping the title-deeds and issuing a proclamation in regard to the road, are null and void.

Thirteenth. That which has been done (in regard to this road) has been the result of a secret scheme that would not be tolerated in any other country without the consent of the constituted authorities. Therefore, as Taotai, I, according to law and reason, write to protest against the road; for, on examining the letter asking the Taotai to sanction the building of the road, I have detected the selfish and false scheme. Even when Her Britannic Majesty's consul applied to have the material, &c., for the road exempted from duty, he did not explain the matter, but still called it a carriage-road. Whereupon I challenged him. Moreover, when he sent in title-deeds of the road, I declined to stamp them. And as there is a considerable portion of the road the title-deeds for which have not been stamped, how can such land be considered the property of the road company?

I, according to law and reason, oppose the road with all my ability; not with force

Fourteenth. In discussing this matter, I wish to state clearly to all the consuls, and

especially to your excellency, that, according to the 8th article of the Burlingame treaty, the introduction of railroads in China was left to the discretion of the Chinese government.

Now, the Chinese government has given no order or permission to build a railroad. If, therefore, the consul still persists in his delusive course, and accomplishes the work under way, it will be in violation of the treaty stipulation and of international law. And to support an underhanded scheme, that is deluding and insulting, is to inflict an injury upon the Chinese government and people. Moreover, to maintain such a position unmoved is to inflict an injury upon the Chinese government and upon all the treaty powers.

Fifteenth. The 39th article of the English treaty with the Chinese government specifies that English merchants in shipping and landing goods must first get the permission of the superintendent of trade; otherwise the goods may be confiscated. Again, the 46th article specifies that the Chinese authorities at each port shall adopt the means they think most proper to prevent the revenue suffering from fraud or smuggling. Again, in the rules regulating trade, the 61st specifies that at each port the limits of the port within which goods may be shipped or landed shall be defined by the customs. The limits of the port of Shanghai within which goods may be shipped or landed were fixed by the customs to be from the new dock to the Temple of the Queen of Heaven. Merchant-vessels are not allowed to take in or discharge cargo outside of these limits.

The mouth of the Woosung River is not a place where cargo can be received or discharged.

Moreover, the whole region about the river is protected by dikes for the protection of the people; works of the first importance, that no one has the right to appropriate to his own use and sell for house-lots or jetties, &c. Now, what is the meaning of foreigners building a railroad and running steam-cars from Shanghai to Woosung, since cargo cannot be received or discharged at Woosung? If the customs regulations are violated, there would be nothing left for me to do but to seize and punish any violation according to law. I beg, then, to inquire what is the use of this railroad?

Sixteenth. There are the English, French, and American concessions at Shanghai, extending from the Yang King Pang to Hong Kew. The mouth of the Woosung River is in the Pan Shan Hien, and not within the concessions at Shanghai. In the treaties of the various nations there is specified the port of Shanghai, but nothing is said about the port of Pan Shan Hien. In which of the concessions is this railroad located?

Seventeenth. I suppose the movement of foreigners to build a railroad and run steam-cars is because the Chinese have never had anything of the kind before, and that their intention is to attempt to extend it to regions beyond. But steamers, guns, and small-arms, the product of the West, the Chinese can make for themselves, and if they want railroads and steam-cars it would not be difficult for them to make them. Moreover, if foreigners make railroads, they must purchase or lease the land, which would make it very expensive. If Chinese make railroads, it will not be necessary for them to purchase the land. Thus, one is difficult and the other is easy. If foreigners wish to build the road for the purpose of deriving a profit, that cannot be done; and as the whole movement is a violation of treaty stipulations, I beg to inquire what is your object? In view of the above considerations, I have to request your excellency to request Her British Majesty's consul to give orders for the railroad company to stop work until answers are received from the English minister and the Tsung li Yamen, and I shall thank you very much.

I have, &c.

M. T. Y.

APRIL 7, 1876.

[Inclosure 2 in inclosure 1 in No. 52.]

Mr. Bradford to Feng, Taotai.

UNITED STATES CONSULATE-GENERAL,
Shanghai, April 12, 1876.

SIR: I have received your excellency's letter of the 4th day of the 3d moon, on the subject of the railroad to Woosung.

As you state therein that this business has been referred by you to the government at Peking, I will send to the United States minister there a copy of your letter and of this my reply thereto.

I shall not undertake to traverse the various statements and arguments advanced by you in your letter. I may remark, however, that the matter does not in my opinion merit the very serious treatment which you seem disposed to accord to it. If foreign-

ers, who have purchased a roadway of only a few miles in length, choose to lay some rails and run cars over it, the whole public, foreign and native, will receive advantage. Why, then, should any objection be made? That this business has been conducted in fraud, I cannot admit. It is a matter of my knowledge that your predecessor in office knew that the road was intended for a railroad, and you will remember that nearly eighteen months ago a conversation was held with your excellency in this office, Mr. Kreyer acting as interpreter, when the purpose of the owners of the road was discussed with you at considerable length by Mr. Seward.

Indeed, the whole population of this port, native and foreign, have perfectly understood the matter from its inception.

This business, moreover, is in the hands of Her Britannic Majesty's consul. I have no reason to doubt that he fully understands the sovereign rights of your government.

I am not aware that there is any intention in any quarter to violate customs-regulations by the landing of cargo at Woosung.

If, however, steamers should be detained there by a lack of water on the bar, and it becomes convenient to load or discharge cargo there, I see no reason why you should object to such cargo being transported over the road.

The object of all concerned should be to facilitate general interests and to promote harmony. Please send copies of this letter to the higher officials of your government, to whom, you inform me, you have represented the matter; also, please find it appropriate to give directions that those who have been permitted to examine your excellency's letter to me may see this reply.

I am, &c.,

O. B. BRADFORD.

[Inclosure 2 in No. 52.]

Mr. Seward to Mr. Bradford.

PEKING, *May* 2, 1876.

SIR: I have received your dispatch No. 470.

I approve the answer which you have made to the Taotai's letter. I believe it to be true that the purpose of the purchasers of the land over which the Woosung Railway is now being constructed was generally understood at the time when the purchase was made, or soon thereafter. That purpose was not, however, as I believe, declared formally in any of the letters which passed with the authorities, and some pains were taken not to defeat the object in view by drawing attention to it unnecessarily.

I may say to you that I told the viceroy at Tien-tsin, on the 17th ultimo, that I had held the conversation with Feng, Taotai, in the fall of 1874, of which your letter makes mention, and that the viceroy admitted that the Taotai reported the subject to him soon afterward. I learn here that Mr. Mayers, of the British legation, spoke of the project openly at the foreign office on one occasion. The matter was brought up by one of the Chinese ministers, and no objections were raised on their part.

I feel sure that many of the high officers of the government wish to see the road completed, and that their opposition is formal only.

The British minister tells me that he has recently dispatched Mr. Mayers to Shanghai, with instructions to effect, if possible, an understanding with the Taotai upon which the construction of the road may go forward without further annoyance. He is, I believe, specially charged to admit the sovereignty of China in matters of this sort. As the government here may have written to the provincial authorities in a favorable way, the chances of his being successful may be good.

I shall take occasion to say to the minister of the foreign office that the Taotai has used unbecoming language in his dispatch, and that his course in printing it in the Chinese newspapers at Shanghai is very objectionable.

I have, &c.,

GEORGE F. SEWARD.

No. 40.

Mr. Seward to Mr. Fish.

No. 84.] UNITED STATES LEGATION,
Peking, June 19, 1876. (Received August 7.)

SIR: I have the honor to hand to you herewith a copy of a letter from one of our missionaries, Dr. Bunn, which has been sent to me by the

consul at Hankow, reporting the circumstances of a recent disturbance in a missionary hospital at Wuchang, the capital of the Hukwang provinces, and also a copy of an instruction which I am addressing to the consul.

I think it incumbent upon us to show appreciation of the good-will and favorable action of the native officials in such cases. The conduct of the missionaries was very discreet.

I have, &c.,

GEORGE F. SEWARD.

[Inclosure 1 in No. 84.]

Mr. Bunn to Mr. Johnson.

WUCHANG, *May* 8, 1876.

SIR: In compliance with your request, I send you an account of the disturbance at our chapel and dispensary on the afternoon of April 14. The chapel is situated on the Fukai, one of the principal streets of the city, and dispensary behind the chapel. In the latter place a considerable number of patients and others were listening to a native preacher, the foreign clergyman being not yet come, and I was, with my native assistants, examining and prescribing for patients in the dispensary, when suddenly a commotion arose in the chapel, and soon two women rushed into my room. They were followed by a crowd of men, who filled the room and the yard, while the chapel was quickly refilled with a noisy throng. The women appeared to be in great trouble; were shrieking that two children, one belonging to each of them, were missing, and, throwing themselves at my feet, they begged me to give them their children. I assured them that I knew nothing of them, and permitted them to search the premises. They searched the rooms, shelves, bottles, roof, and yard, but were not satisfied, and the noise seemed to increase. As there were still patients to be seen, I kept along at my work and was not interfered with, except by the annoyances of the women and the jostling of the crowd. Half an hour later I sent a messenger for Rev. Mr. Boone, and some of the attendants went also for Messrs. Judd and Brampton, and for a constable. They came promptly, and about the same time a mandarin, a Wei-yuan. At that time the women had disappeared, but the excitement in the chapel was great, and the opinion was conveyed that we had secreted the children probably for the purpose of removing their eyes. It is believed that here, as in other parts of China, the opinion that foreigners use the eyes of Chinese children to make medicine, and perhaps to extract silver from Chinese lead, is generally held. Some threats of vengeance were made, and one man was conspicuously violent; but I do not think the mass of the people were badly disposed. Indeed, the patients did not cease coming, though a good deal hindered by the crowd. The foreign gentlemen, assisted by the officers, who did their duty faithfully, soon succeeded in moderating the excitement, which subsided still more when a report that the missing children had been found began to prevail. When, finally, we went away the premises were cleared of Chinese, though there were still a crowd of perhaps five hundred in the streets. They gave us but little annoyance as we passed home. The affair was reported, though not by our advice, to the Hsien. That official politely sent us his card and some copies of a proclamation he had issued. The proclamation states that the object of our institution is only to do good, and that all persons should beware of disturbing us; that in case any trouble arose the movers in it would be punished. The proclamation bears the seal of the Hsien's Yamen. I will try to send you a copy of it. The authorities also sent a man about the streets to beat a gong and proclaim that the children were found.

I should not have troubled the consulate with this case had you not requested it. It is true the affair might have been serious had any mistake in our conduct fired the crowd, or a courageous and unprincipled leader worked upon their prejudices. It terminated, however, without serious damage to any one. I think, on the whole, the Chinese officials and people behaved very well. There is no reason to doubt that the women really feared we had their children, and the crowd's somewhat demonstrative sympathy with them is a natural result of their belief in the silly stories about foreigners. The mayor and his assistants did better than we could have expected, and we are abundantly thankful for the result.

It may be mentioned that the city and surrounding country have been of late rife with rumors of war and insurrection, in which the always-dreaded rebels and foreigners have been made to figure. The cause of these seems to have been the quartering of a larger number of soldiers than usual around the city, and the arrival of a fleet

of gunboats with arms and ammunition for the army. These things may have had an influence in bringing about the excitement in the chapel. No further difficulty has occurred or is apprehended.

I have, &c.,

A. C. BUNN.

R. M. JOHNSON, Esq.,
United States Consul, Hankow.

[Inclosure 2 in No. 84.]

Mr. Seward to Mr. Johnson.

No. 12.] UNITED STATES LEGATION,
Peking, June 14, 1876.

SIR: I have received your dispatch, numbered 478, inclosing Dr. Bunn's account of a recent disturbance at the Episcopal mission's hospital at Wuchang.

It is a matter of congratulation that the disturbance did not result in a more or less serious disaster. That it did not is largely due to the tact shown by Dr. Bunn and his associates. The native officials displayed good feeling and promptness. It will be well if you convey to them an indication that we appreciate their action, and that the favorable issue of the affair was partly due to their interference.

Please hand a copy of this letter to Dr. Bunn.

I have, &c.,

GEORGE F. SEWARD.

R. M. JOHNSON, Esq.,
United States Consul, Hankow.

No. 41.

Mr. Seward to Mr. Fish.

No. 93.] UNITED STATES LEGATION,
Peking, June 28, 1876. (Received August 25.)

SIR: I have the honor to hand to you herewith a copy of a letter, No. 164, which I have received from Mr. De Lano, inclosing a copy of the agreement between the Great Northern Telegraph Company and the provincial authorities to cancel the contract under which the company was to build a line of telegraph between Foochow and Amoy.

The original proposal to build this line was made when Japan was occupying a part of Formosa, and was accepted, so to speak, as a war measure. Ever since, it has been the desire of the Chinese to escape from the matter.

They have finally succeeded, and while there is promise for the future in the school of telegraphy which has been established according to Article VII of the agreement, I do not look for an early prosecution of the enterprise. Mr. De Lano's opinion may be right, however. He has the advantage of his acquaintance with the people immediately concerned to guide him.

Articles V and VI are not so liberal as we might have expected, remembering the generous support given to the company by the representatives of other governments.

I have, &c.,

GEORGE F. SEWARD.

[Inclosure in No. 93.]

No. 164.] UNITED STATES CONSULATE, *Foochow, May* 15, 1876.

SIR: I have the honor to inclose herewith a translation of a dispatch, which I have recently received from the Chinese officials at this port, showing the terms of a settlement of the late controversy between the provincial government and the Great Northern

Telegraph Company in regard to the erection of a telegraph line between this port and Amoy.

I may add for your information that the school of telegraphy mentioned in the dispatch is now in successful operation under the auspices of the company, and that it seems very likely that the Foochow and Amoy line will be constructed by the provincial government as soon as their own people become sufficiently instructed in the art to conduct the enterprise,

I have the honor to be, sir, your obedient servant,

M. M. DE LANO,
United States Consul.

Hon. GEORGE F. SEWARD,
United States Minister, Peking.

[Inclosure in inclosure in No. 93.—Translation.]

The committee of foreign trade have the honor to inform you that the provincial government of Fuhkien has concluded an arrangement with the Great Northern Telegraph Company in regard to the proposed Foochow and Amoy telegraph line, by which the late contract for the erection of said line has been canceled, and separate agreements concluded.

Under this arrangement, which was concluded and the articles signed on the 20th March instant, we have made a payment of $50,000 on account of the sum which was originally to be paid for the erection of the line, and are to pay the balance in two separate installments, as is agreed upon and set forth in the new contract, a copy of which we subjoin for your information.

As you have lately been absent from the port it is our duty to report the case to you, we having first duly communicated it to the high authorities of the province.

Begging you will give us a reply, we have, &c.,

FOREIGN COMMITTEE OF TRADE.

Copy of agreement.

Concerning the canceling of a certain contract (dated the 21st of May, 1875) about the construction of the Foochow-Amoy overland telegraph line, entered into between the parties of the first part, the high authorities of Foochow, represented by the board of foreign trade, and as parties of the second part the Great Northern Telegraph Company, represented by the director, George I. Helland, R. D.

Upon the declaration of the said high authorities that it is impossible and impracticable at present to carry out the above-mentioned contract, the said company, yielding to force of circumstances, agrees to cancel the same upon the following conditions:

First. It has been arranged by both the aforesaid parties that the said contract be at once canceled; the said company to deliver all materials, stations, instruments, &c., which the said high authorities have purchased, to the said board of trade, in terms to be specified in this agreement, and the said high authorities to pay the said company the balance due to them, in terms also to be specified herein.

Second. Payment of the whole remaining contract sum, viz, $124,500, (one hundred and twenty-four thousand and five hundred Mexican dollars,) as follows: $50,000, (fifty thousand dollars) this date; $37,250 (thirty-seven thousand two hundred and fifty dollars) on the 24th of April, and the balance of $37,250 (thirty-seven thousand two hundred and fifty dollars) on or before the 22d May.

Third. The company at once to deliver to the board of foreign trade all materials, poles, stations, and watch-houses, with their title-deeds, distributed on the line.

Upon payment of the second instalment, deeds of transfer of the company's property at Nantai (Foochow) to be prepared, and the same, with all materials, stationery, &c., in the company's go-down, to be handed over to them on the day of payment of the third and last instalment, deducting from that amount any of the articles that may be deficient; the company to deliver the entire quantity of materials, tools, and instruments, poles, &c., specified in the contract, less the quantities destroyed and stolen during the building of the line.

Fourth. The company to waive all claims for all and every unexecuted portion of work according to contract.

Fifth. The high authorities not to grant similar contracts or concessions to any other foreigners in the reconstruction of this line.

Sixth. Should China succeed in building the line herself, and open it for public correspondence, they will grant the company exclusive right to connect their present sub-

marine line with the same, and agree upon a certain scale of charges which can afterwards not be changed without mutual consent; this clause to have no reference to eventual sea-cables, or if China should reserve the line entirely for government services.

Seventh. The high authorities will immediately make arrangement with the company for instructing Chinese students for the time of one year, and after the expiration of this time it shall be at the option of the high authorities whether they will further extend this arrangement or not.

Eighth. The foregoing stipulations have been submitted by the board of foreign trade to, and approved by, the high authorities, viz, the governor-general of the provinces of Fuhkien and Chekiang Li; the commander of the Manchu garrison in Foochow, Wang; and the imperial commissioner and governor of the province of Fuhkien, Ling, the contract of 21st May, 1875, having this day been canceled and given up.

This agreement is written in English and Chinese in duplicate, each party to keep one copy, the Chinese text to be binding on the high authorities, and the English text to be binding on the company.

In witness whereof the two parties have hereunto fixed their hands and seals at Foochow this the 20th day of March, 1876.

[Official stamps and seal of the board of foreign trade.]

For the Great Northern Telegraph Company,

GEORGE I. HELLAND, *E. D.*

No. 42.

Mr. Seward to Mr. Fish.

No. 95.] UNITED STATES LEGATION,
Peking, June 29, 1876. (Received August 25.)

SIR: I have the honor to advise you that I paid a visit yesterday to the ministers of the foreign office.

* * * * * * *

The conversation about the Chinese in California was a long and frank one. I mentioned briefly the difficulties which are experienced there; as, for instance, their competition in the labor markets; their isolation from our people, as a result of differences of origin, speech, customs, &c.; their immoralities, consequent upon the lower grade of society from which they originate, and the absence of women; their inadequate regard for sanitary conditions, &c. I assured them of the benevolence of our Government and people, and an indisposition to allow unjust discriminations to be made against any classes resident within our borders. I took occasion to dwell strongly upon the need which they have to establish their proposed legation at Washington, and the almost greater occasion for a consulate at San Francisco. They met what I said with the simple statements that our people ought not to complain if theirs were more skillful in certain avocations; that they had heard of the agitation; that they would dispatch Chên Lan Pin to establish the mission at Washington soon; that they would bear in mind what I had said about the need of a consulate at San Francisco, and that they must look to our Government to protect their people. This latter point they reiterated, not unpleasantly, several times during the discussion. They seemed to feel confident that this protection would be extended, and expressed the wish that their countrymen might be treated as well everywhere as we treat them.

It is fortunate, I think, that I introduced this discussion. This will be the better understood when I call attention to a dispatch on the subject which they have sent to me to-day, a copy of which I inclose herewith. It may be that they would not have sent it had I not spoken first, and given them, in doing so, a certain assurance of our disposition

to deal frankly and fairly with the matter. In such case the grievance would have been alluded to first, probably, at some moment when the grievances of our people here were under discussion. But it may be that they would have sent their letter irrespective of my remarks. The fact that I have spoken first is seen to be fortunate, then, whichever alternative they had followed. Our readiness in the matter can only be construed by them in a way favorable to us.

Having already dealt so fully with the business, I shall do no more in replying to the prince than to refer to the conversation at the Yamen and state that I have sent the correspondence to you for instructions.

I recognize the peculiar difficulty and delicacy of this matter, and trust that my course will seem to you discreet.

I have, &c.,

GEORGE F. SEWARD.

[Inclosure 1 in No. 95.]

Prince Kung to Mr. Seward.

SIR: This Yamen is in receipt of a communication from the northern superintendent of foreign trade, stating that upon the 11th of June a letter was received from Rung, (Yung-Wing,) expectant intendant of circuit, now in America, in which he said that statements were constantly appearing in the newspapers to the effect that the low Irish residing in the city of San Francisco were in the habit of molesting the Chinese. The cause of this ill-treatment existed in the fact that this low class were envious of the Chinese because they came in such numbers and interfered with their wages. He was also in receipt of a letter from the guilds in San Francisco, stating that Chinese upon arrival in that city were continually assailed with every species of abuse upon their debarkation, and it was known to the guilds that these same classes had selected two officials and dispatched them to Washington to consult measures for the suppression of Chinese emigration, &c.

This Yamen begs leave to remark that the fifth article of the supplementary treaty with the United States declares that "The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects, respectively, from the one country to the other, for purposes of curiosity, of trade, or as permanent residents," &c. And the sixth article declares: "Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities, or exemptions, in respect to travel or residence, as may there be enjoyed by the citizens or subjects of the most favored nation; and, reciprocally, Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemptions, in respect to travel or residence, as may there be enjoyed by citizens or subjects of the most favored nations," &c.

The purport and intent of which is that the people of either country are at liberty to go and come at will, and kind treatment on either part is to be accorded to them, as is so plainly stated in the supplementary treaty.

We therefore feel bound to hand you the particulars of the treatment received by the Chinese in San Francisco at the hands of the low classes of Irish, as narrated in the letter of the northern superintendent of trade, and their purpose of interfering with Chinese emigration, and to request that you will communicate with your Government and request, in accordance with treaty, the suppression of such acts, in order to the maintenance of friendship between the two nations.

With compliments, &c.,

(CARDS OF THE YAMEN.)

PEKING, *June* 29, 1876.

To GEORGE F. SEWARD, Esq., &c.

[Inclosure in inclosure 1 in No. 95.]

Newspaper extract.

Upon the 3d of the present month the O. and O. Steamship Company's steamship Oceanic arrived from Hong-Kong and Yokohama after a passage of 25 days. She brings as passengers 846 Chinese, among whom is an officer, interpreter, and six men

who are under the orders of the government of China, proceeding in charge of the Chinese exhibit to the Centennial. The nature or amount of this exhibit could not be accurately learned. There was about 200 tons on board the Oceanic, and 300 tons on a ship which has not yet arrived. The Oceanic brings as cargo 1,557 packages of tea, 721 packages of silk, and 25,512 packages of miscellaneous cargo for San Francisco. In addition, she brings for eastern markets 3,095 packages of tea, 721 packages of silk, and 99 packages of miscellaneous cargo.

When the passengers were about to debark the Irish and hoodlums, to the number of several hundred, assembled, blocking up the wharf and streets adjacent, and on the appearance of the new-comers assaulted them with mud and stones, and the wounds and bruises received by them were innumerable. They evidently think that we Chinese are immigrating in excessive numbers.

[Inclosure 2 in No. 95.]

Mr. Seward to Prince Kung.

PEKING, *June* 29, 1876.

To His Imperial Highness PRINCE KUNG:

I have received your dispatch of to-day making mention of a report which has come to the Yamen from Mr. Yung-Wing, in regard to the treatment of Chinese in California.

The anxiety of my Government to meet this matter in a candid manner will have been indicated to you by my conversation with the members of the Yamen yesterday. Having received your letter, it becomes my duty to transmit it to my Government for its information.

I take this occasion to repeat very warmly the expression of my desire that your mission at Washington and a consulate at San Francisco may be soon established. It is very desirable that you should be accurately informed of the situation of your people in America, and that my Government should have the assistance of your officials in dealing with them.

I have, &c.,

GEORGE F. SEWARD.

No. 43.

Mr. Cadwalader to Mr. Seward.

No. 74.] DEPARTMENT OF STATE,
Washington, August 31, 1876.

SIR: I have to acknowledge the receipt of your No. 95, giving the substance of a conversation which occurred in the course of a visit paid to the foreign office, concerning the questions that have arisen in California in connection with the emigration of the Chinese.

You state that you mentioned the difficulties of our experience in California, owing to the habits and isolation of the Chinese and other causes, and gave assurances of the benevolence of our Government and people, and of our indisposition to allow discrimination to be made against any classes resident within our borders, and that you also took occasion to dwell strongly upon the need which exists of establishing a legation at Washington and a consulate at San Francisco.

You also state that in reply you were informed that a mission would soon be established at Washington, and that your statements as to the need of a consulate at San Francisco would be borne in mind, but that they must look to our Government to protect their people, and seemed to feel confident that this protection would be extended, and expressed the wish that their countrymen might be treated as well everywhere as in the United States.

You also inclose a copy of a note dated the 29th of June, received from the Yamen, to the effect that a communication has been received from the northern superintendent of foreign trade in reference to statements constantly appearing that persons in the city of San Francisco were in the habit of molesting Chinese; that the Chinese, upon arrival

in that city, were often assailed, and that the question of measures for the suppression of Chinese immigration had been discussed. In this communication the Yamen call attention to the 5th and 6th articles of the supplementary treaty with the United States, and state that the purport of this treaty is that the people of either country may be at liberty to come and go at will, and kind treatment on either part should be accorded. The Yamen request you to communicate with this government, and ask that, in accordance with the treaty, the commission of such acts may be prevented, for the maintenance of friendship between the two nations.

It is not easy to give more than a general reply to the note from the Yamen, the complaints being based on no particular occurrences, and asking no more than a general observance of treaty obligations. There are doubtless difficulties, arising in part from the result of competition in labor, and as to which some political questions seem to have arisen. There are also many difficulties to which you have adverted: the unwillingness of the Chinese, even if able so to do, to really become a part of the people of the country, or to lay aside their own habits of life and their intention to return to their own country. Inquiry is now proceeding in reference to all these questions, and Congress at its last session appointed a committee from the Senate and House of Representatives to proceed to California and report upon the subject. It must be sufficient, therefore, at this time, without treating of the subject in particular, to assure the Yamen, in reply to their note, that the United States recognize the obligation of all the provisions of treaties which have been made with China, and will endeavor at all times to carry out in good faith all such provisions.

Difficulty arises when dealing with individual or temporary excitements, such as have been manifested not unfrequently in China as against our own people or other foreigners, and this difficulty will assuredly be appreciated by the Chinese authorities.

Considering the large number of Chinese emigrants who have come to the United States, and considering the small number of our citizens who have gone to China, we might naturally expect more frequent cause of complaint to arise from Chinese in this country than from Americans in China; such, however, is far from the case. The Chinese who have come to us have engaged in whatever business they pleased, and settled in such portions of the country as they preferred, and no restraints, so far as residence and occupation are concerned, have been imposed upon them.

Your suggestion that the establishment of a legation in Washington and of a consulate at San Francisco would tend to a freer communication between the two countries was a proper one, and this course would tend to afford a more ready channel of redressing any particular grievances.

Both nations must deal carefully and watchfully with the great problem, and endeavor to prevent any real cause of complaint in either country.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 44.

Mr. Seward to Mr. Fish.

No. 97.] UNITED STATES LEGATION,
Peking, July 1, 1876. (Received August 25.)

SIR: The Senatorial Chinese Investigating Committee of California have addressed to Dr. Williams a series of sixteen questions bearing upon the subject of their investigation, which he has answered. He has prepared and handed to me the inclosed copy of the queries and his responses. This I send to you for the files of the Department. He has told me that he will send the original paper to you with the request that you will forward it to the committee if you see no good reason to the contrary.

I have, &c.,

GEORGE F. SEWARD.

[Inclosure.]

Replies to sixteen inquiries from the Senatorial Chinese Investigating Committee of California respecting Chinese Immigration, sent to S. Wells Williams by Frank Suay, secretary, April 20, 1876.

First. From what particular province or portion of China does the mass of emigration flow, and what do you know of the extent of that emigration?

The emigrants who have gone to California are natives of the province of Kwangtung to such an extent that it is safe to refer more than nine-tenths of the whole to it. The entire area of this province is reckoned at about 80,000 square miles, (same as that of Oregon;) but the largest portion of the emigrants go from its most populous prefecture of Kwangchau, in which the city of Canton and colony of Macao lie. This prefecture, which contains fourteen districts, may be roughly estimated at one-tenth or more of the whole province, and for population, resources, and energy of its inhabitants is the leading division. They speak generally the same dialect, and as they have peculiar facilities for intercourse through the great number of creeks and canals which intersect it and connect with the Pearl River and the sea-coast, in their admirable boats, they are very well acquainted with each other's movements, wants, and industries. It is from this region, one also more or less connected with foreign trade for the last three centuries, that emigration has flowed to California and Australia more than from other parts; and to this familiarity with that trade, by having shared in its benefits, may partly be ascribed the readiness with which its inhabitants have gone abroad. If the clause in this inquiry, "What do you know of the extent of that emigration?" refers to the area of country from which it proceeds, I can only give a guess that it hardly exceeds 15,000 square miles, and this includes portions of the adjoining prefectures.

Second. If from any particular province, what is about the population of that province?

The population of this province of Kwangtung, according to the best information, is about twenty millions, and I should reckon the proportion of this particular region which furnishes the emigrants at not less than five millions. Foreigners have not that ready access to the official returns of local censuses which will enable them to compare them with the population personally observed, even on a small area, and thus ascertain what degree of accuracy can be fairly ascribed to them; but, as this region is exceedingly fertile and accessible, this estimate of five millions is no doubt within the truth. The city of Canton contains a million, and there are other large cities.

Third. Is the government of that province in any sense distinct or independent from that of the Chinese Empire, or is it so in regard to any laws concerning emigration? Please give an outline of the government of the empire and of the provinces, and of their bearings upon each other.

The Chinese Empire is, both in theory and practice, a centralized government, whose sway extends over the whole of its vast area as one power, each of its eighteen provinces being controlled by the imperial authority in Peking. The administration of a province is in no ways distinct or independent of that authority, and all its members are appointed through the board of civil office at the capital; but none of them are

permitted to hold any important position in the civil service of a province if natives of it. There is a large liberty allowed to the highest functionaries of a province in the exercise of powers intrusted to them, limited chiefly to their executive duties, though they often act in a legislative and judicial way, too, for in China these three departments are not very carefully defined or restrained.

However, as emigration is now free and the old restrictions have not the least authority, no provincial officer would presume to issue any regulation to limit or guide it where it is voluntary. In China laws fall into disuse, and are not formally abrogated, as with us, so that old statutes or edicts are frequently re-enacted or re-issued, according to the needs of the time, the caprices of the magistrate, or in compliance with the orders of his superiors.

The idea of good government in China is to maintain the peace in the country, collect the revenue, disburse the sums due to those on the civil and military lists, and remit to Peking the proportion of taxes assessed on the region, if the soldiers who may be in the field do not require the whole. To promote industry, open or repair roads, clear water-courses, establish schools, develop mines, encourage mechanical or other arts by granting patents, or, in fine, perform the duties of officers solicitous to elevate their subjects and win their loyalty by consulting their welfare—none of these things have yet really entered into the minds of the rulers of this land as part of their proper responsibilities.

There is a radical difference between governments of Christian countries and this of China, in respect to the rights of the people contrasted with the privileges and duties of their rulers; for in this country the rights may be generally stated to be all on the part of the latter, and the duties all incumbent on the former. The Peking government is composed of a large body of officers and placemen, arranged under several boards and councils, with a vast body of underlings, whose highest members conduct the affairs of state under the direct control of the Emperor, and the subordinates are employed in the capital or appointed to vacant posts in the provinces. The eighteen provinces are primarily governed by eight tsung-tuh or governors general, and sixteen fu-tai or governors; and there are altogether ten separate jurisdictions among them, each amenable directly to the court at Peking. A principle of responsibility, by which an officer's position and even life is jeoparded by the conduct of an inferior, permeates the whole system, and somewhat cripples its efficiency, as it leads every individual officer to shirk danger and throw the risk of results on his subordinates. Each governorship being independent, a sedition in one province is not presently felt in the next, and its authorities endeavor, as best they can, to put it down without depending for aid on their neighbors, who do not usually act until orders come from Peking; but, in fact, each province is not much more than able to take care of its own affairs. The loyalty of the Chinese people to their present government, among all ranks, grows out of a general conviction that it is the best for all which they know; and when rebels endeavor to destroy it, they allege, in excuse, that the administration is so corrupt that it can no longer be endured, and rebellion is the only remedy. The system has worked so well, however, that during the last 250 years none of the high provincial grandees have rebelled against their sovereign, although wielding great resources in men, wealth, and material. You ask me to give an outline of the government of the empire, &c., but the topic is too wide for an outline; and as I do not see its relevancy to the main subject of this reply, I beg to refer you to the Middle Kingdom, (vol. 1, pp. 296, 343, 499,) where ampler details can be found than I have leisure now to go into.

In regard to emigration, there is doubtless a general desire on the part of the government to retain its subjects in their own land, and in the minds of educated men every one who leaves it is held to take the worst choice. He leaves the known for the unknown, and goes into savage regions where no imperial protection can ever reach him. This public sentiment tends to restrain emigration, and in fact at the distance of one or two hundred miles from the coast few go abroad. The people near the sea or along the frontiers have emigrated as they have found opportunity, and few have ever returned; so that is not a new or sudden impulse which now possesses them. On the north they pass into Mongolia and Manchuria, where vast unoccupied tracts invite their tillage. On the south they go to Luçon, Borneo, Singapore, and islands in the Archipelago, where they trade and farm, ply their handicrafts, and gradually settle down. On the southwest they find their way into Siam, Burmah, India, and farther on, everywhere adding to the wealth of the land by their thrift and industry. In some parts of Borneo and Malaysia they form small self-governing settlements, but usually they are obedient to the local authority, while fond of retaining their national identity and language by uniting themselves into companies or societies for mutual aid and protection. In Manchuria they are still within their own Emperor's domain, but there, as elsewhere, their plodding toil gives them a superiority, and distinguishes them from all other Asiatics. I have no data from which to calculate the amount of this emigration, for no one has been able to follow it up and get

the statistics, but it is probably less now than it was forty years ago, owing to the departures for other countries, America, Cuba, Australia, &c.

Fourth. From what port of China does the mass of emigrants depart? And if you answer Hong-Kong, please state what relation that port has to the Chinese Empire, or any other government, and whether the Chinese Empire has any control over emigration from that port.

So far as I know, emigrant-ships have very seldom gone to California sailing direct from any port in China; if so, it was probably from Whampoa. It is the security which the emigrants have that if they embark at Hong-Kong they will not be carried elsewhere, that has had some influence in centering the business there, and the other fact that their own rulers cannot interfere in a foreign port. To say that Hong-Kong is a British colony is to assure you that the Chinese government has not the least jurisdiction over it, no more power to restrain or interfere with emigration thence than it has from Japan or Manila. It is not easy to say what "relation" it has to China; for, politically, they are totally independent and the Chinese Court has not even a consular agent there. Its proximity to Canton, and the large trade and travel between it and the mainland, involve much intercourse in steamers and small native craft, which has been of a peaceful character, and on the whole beneficial. The two steamboats plying between Hong-Kong and Canton daily often carry a thousand passengers.

The officials at Canton have never, so far as I know, shown a desire to interfere with their countrymen going to Hong-Kong; nor have the British tried to detain them. Such an attempt on either part would be unwise, for it would be disregarded if attempted, and quite futile.

Fifth. What class of Chinese emigrate to the United States? What is their condition at home with regard to wages, occupations, caste or class, freedom or servitude, habits of living, morals, &c.?

The class of Chinese which emigrate, in the main, are from the agricultural and working portions of society, probably not two per cent. coming from the literary class. They are such people as depend on their daily labor for daily food and raiment, and are induced to go abroad from hearing of the higher wages in other lands, high compared with the pittance they can get at home. There is no caste among the Chinese, no privileged class or titled aristocracy on the one hand claiming rights over serfs, or slaves on the other; and, consequently, no power inheres in the hands of one portion of society to get rid of their drones, their criminals, their paupers, or their useless slaves, by shipping them to other lands. Those who arrive in California are free men, poor, ignorant, and uncivilized indeed, easily governed and not disposed to make trouble in any way, but hoping to get a good price for their labor. Born and brought up under heathenish influences, their notions of morality and law are low, and cannot be fairly judged by the Christian code; in their own land they are taught obedience to parents, and are not inclined to riot or robbery. These emigrants, on the whole, are above the average of their countrymen over the whole empire, especially in enterprise, ability to read their own language, and skill in mechanics; for I consider the Cantonese as the superior portion of the Chinese race, at least superior to those living in the northern provinces. Their average wages at home may be reckoned at less than three dollars a month, rather than more; their clothes cost them little in that climate, and need not be reckoned, food and rent being the chief items. They are not addicted to drinking, but the practice of smoking opium is increasing among them and carried wherever they go.

Sixth. Do you know of the existence, or former existence, of any contracts by which emigrants are shipped to the United States and held there until the contracts are complied with? If so, state what the contracts are, who made them in China, and who represent such contractors in the United States.

I know nothing of the existence of any contracts made in China by which emigrants are shipped to America. I have never seen such a contract, nor heard it described as containing stipulations by which one party bound himself to work for the other at certain wages for a specified time. I suppose reference is made to the agreement entered into between the agent who charters the ship and the poorer passengers to refund any advances made to the latter for their passage-money as they can earn it. I was a passenger in an emigrant-ship going to San Francisco in 1860, and I was told that a large proportion of the 318 Chinese on board had entered into such an agreement, binding themselves to work out and pay back the advances made in Hong-Kong for all or part of their passage-money to the Gold Hills. The same system is in force in the emigration business to Singapore and Borneo, and I was told by the United States consul at the former place that he had himself once gone on board a junk arrived in the harbor with laborers and engaged several for his plantation, for whom he was obliged to pay a large sum in advance to re-imburse the captain for their passage-money. Every man thus engaged honestly worked out his indebtedness. I suppose such contracts as this are made with most of the men going to California, and their nature and mode of repayment can easily be learned in the State itself. In respect to the emigration to the United States and to Australia, I think it is reasonable to infer that their

names of Old and New Gold Hills (*Kan Kām Shan* and *Sān Kām Shan*) have served as a temptation and stimulus to persons inclined to try their fortunes abroad, and explain the increase thither more perhaps than we are aware. If a Chinese was debating where to go, such a name would naturally turn his choice.

Seventh. Do you know of the existence in California of Chinese companies, (now six in number?) If so, what is the basis of their organizations, what are their objects, how supported, what are their laws or rules, and what jurisdiction do they claim or assert over their members or emigrants to the United States? Have such companies any representatives in China? If so, in what part of China, and who are they?

In relation to the six companies, whose organization is referred to, I only know of their existence, and have been told that they exercise various intermediary functions between their countrymen in the United States and in Hong-Kong, but I have no definite information upon the matter.

Eighth. What do you understand, and what is the general acceptation in China of the terms "cooly" and "cooly-trade," and what is your interpretation of, and what is the meaning attached by the Chinese officials to, the term "cooly-trade," as employed in the Burlingame treaty?

The word *cooly* is of Hindoo origin, and means a day-laborer. It is used in China chiefly by foreigners, though it has a currency at the coast ports among the natives to designate a common laborer, one who goes out to day's work, runs and serves as a menial in a shop or household, or can be hired for a job where unskilled labor only is expected. The term *cooly-trade* is only applied to the business of obtaining men to go abroad under a written engagement to work at a certain price for a number of years, and signing such contracts with them before sailing to the country designated.

The phrase was early applied to the agency established in Calcutta to engage Bengalese to go to the Mauritius as farm-hands, to supply the place of the negro slaves recently emancipated; and it has gone on for about forty years, until at present this portion of the population exceeds that of all other classes. The *cooly-trade* began in Canton about the year 1848, and has been stopped only within two years by the refusal of the Portuguese authorities of Macao to allow ships carrying Chinese laborers to leave port. In former years they were shipped at Canton, Amoy, Swatow, Shanghai, and perhaps elsewhere along the coast, as well as at Hong-Kong; but owing to the atrocities growing out of the business, from the manner of engaging and shipping the men, the governments of Great Britain and the United States forbade their flags to be used to cover the trade. Gradually the whole business centered in Macao, where finally only Spanish and Peruvian agents resided to secure laborers in any way it could be done for Cuba and Peru, the only countries to which latterly they were taken. This alone is the traffic known as the *cooly-trade*, termed *chao kung*, or "hiring workmen," in Chinese; but in the common talk at Canton described as *mai chu tsai*, or "sold as a pig, [in a basket,"] in allusion to the way in which the men were carried off and never returned. *It is not employed in the Burlingame treaty*, and the Chinese officials, therefore, had no need to ask its meaning; but Article V of that compact is designed to prevent it, by an agreement between the high contracting powers to pass laws making it a penal offense for their subjects, respectively, to take laborers to other countries against their free consent. The phrase to *take laborers* is even stronger in Chinese than it is in English, for *mein kiang tai wang* involves the idea of actual constraint to make them go.

For ten years or so previous to 1874, the difference between the cooly-trade at Macao and the emigration business at Hong-Kong was so well known among the natives on the adjacent main-land, that it was enough for them to know whence a man sailed to know whether he was bond or free, whether he would ever be heard from and return home or not. I lived in Macao during the existence of the cooly-trade in its earlier and less repulsive days, and I saw enough to convince me that it was accompanied, even up to 1859, with so much that was illegal and inhuman in the way of cajolery, intimidation, and actual kidnaping, that it could not safely be allowed, for these acts were necessary sequences of every attempt to load ships with coolies. I think it is certain that no ship ever arrived in California with Chinese who had been engaged to go there as contract-laborers, and it is highly probable that hundreds, perhaps thousands, have been deluded into accepting contracts as coolies from an idea that they were to be taken to the gold hills, even if they were not actually told so. Their ignorance was their destruction.

Ninth. State at length the forms prescribed and in use by the British colonial government at Hong-Kong in the shipment of Chinese from that port to the United States; also the forms prescribed for and in use by the American consul at that port in such shipment. Are the laws in force by the Chinese, British, and United States governments in regard to emigration of Chinese to the United States strictly enforced, and are they such that, if enforced, they would prevent the emigration of servile or contract Chinese labor to the United States?

The answer to the inquiries under this head respecting emigration from Hong-Kong can only be given there in a satisfactory manner. Chinese laws are inoperative in

that colony; but it is allowable to engage contract-laborers at any open port in China for other countries, except Peru and Portugal, under regulations calculated to insure the safety and return of the laborer when his contract is fulfilled.

Tenth. Are the Chinese or provincial governments in favor of or adverse to the emigration of Chinese?

The distinction made in this inquiry between the Chinese and provincial governments does not exist, and the expression tends to mislead. The sentiment among the educated classes of this country is adverse to emigration, and very few of them go out of its borders. Their opinion, too, influences and deters others, as has been stated under the third answer, but it would not be very effectual if there was more knowledge of other lands among their countrymen. Along the coasts south of Shanghai, the seafaring habits of the people have long familiarized them with emigration. As they began to trade with Manila, Batavia, Siam, or Singapore, and settle there, the relatives and others left at home began to look toward these places when out of employment. The people of Amoy went to Manila and Batavia; those from Swatow, to Bangkok; those from Kiaying Chau, (north of it,) to Borneo; and those from towns in the vicinity of the last two, to Singapore. It is not alone their better knowledge of these places, and friends living there, which induced the people of these various towns thus to follow their leaders; the strongest inducement is that there alone they can be easily understood, as the dialect is the same. An Amoy man would hardly think of going to a place where Canton or Shanghai men lived, on account of this difficulty of understanding each other's speech; and this feature of Chinese emigration applies to California. Those now in that State are from Kwangchau, and there is not much fear that natives from other regions, who speak another dialect, will go there, even if they could expect to make their way against the Cantonese. The peculiarities of dialect have great power in the country itself in deciding where a man goes, and exert a still stronger influence upon emigration abroad.

Eleventh. Do you know, and if so state, the number of Chinese who have emigrated to the United States, and the number that have returned to China?

I have no means of ascertaining how many Chinese have emigrated to the United States, or have subsequently returned home, and therefore have no answer to make.

Twelfth. What is the social position of the female in China? Is polygamy lawful? Are the children of polygamous wives or of concubines legitimate? Is the infanticide of female children countenanced, permitted, or legalized? Is prostitution in China regarded with the same idea of moral degradation as in civilized countries? Is there any considerable emigration of the female Chinese from China to the United States, and, if so, to what extent, and of what class are the emigrants?

The social position of women in China cannot properly be compared with what it is in civilized countries, for the acceptance of the Christian religion has wrought a radical change in the standing granted to her; but, in comparison with her treatment in Mohammedan and other pagan countries, as India, Burmah, Japan, Egypt, Persia, &c., she stands higher; her legal rights are probably better guarded by law and custom, and her education and influence in the family are fully as great. In these particulars I think she has reached as high a point in China as is possible without the elevating and purifying power of Christianity; but the difference between that point and what we expect and strive for in female culture is still very great.

No English word exactly describes the marriage relations allowed by Chinese laws, and it has been a subject of discussion whether polygamy or monogamy is preferable. No Chinese is allowed to take a *tsi* or wife while he has one already living, for this would be regarded as bigamy, and a violation of law; but he can bring one, two, or more women into his house as *tsich* or concubines, while the *tsi* is living as his acknowledged wife. She is betrothed with certain legal formalities, followed by the exchange of presents, and, what is the most important of all and final act, with a public procession through the streets; while the *tsich* is taken privately, and stands in her husband's family in the same position that Hagar did in Abraham's except that her legal rights are more secure, and she cannot be sent out of the house without very good cause. In point of fact, very few Chinese have more than the *tsi*, and then she is usually the chief agent in bringing in the *tsich*. The children of both women are equal, and no shadow of aspersion is ever brought against the family on this ground.

The practice of infanticide is chiefly confined to girls, but it is frowned upon by the best part of society, and is neither countenanced, permitted, nor legalized. Laws are constantly issued against it, tracts are circulated gratuitously denouncing it as murder, a crime sure to be visited with Heaven's retribution, and nobody defends it. The extent to which it is practiced, the places where it prevails, and the motives which induce its commission, are all of them points which have attracted much attention among foreigners; for it is generally believed here that the ideas entertained abroad as to its extent are exaggerated, and the Chinese people as a whole unjustly stigmatized in this particular. Though entirely illegal, public opinion can only frown upon it, for its commission passes unpunished, and the guilty parents are not afraid to own their dark deeds.

Prostitution stands in rather a different position in China than in western lands, for the unhappy women who follow this life were most of them taken into the bagnios when mere girls, sold at an early age by their relatives, on account, it may be, of poverty, or stolen from their homes by pimps. There is not, therefore, usually that fall from virtue here that is involved in this kind of life in Christian lands. These women are generally gathered in special communities in large towns, somewhat separated from other parts, and, though their position is degraded, they occasionally get husbands. Street-walkers are unknown.

Very few, indeed, of the emigrants to California have taken their families, and the same custom prevails among those who have gone to Siam, Singapore, or Australia; for Chinese women refuse to leave their homes and families to go anywhere, and the men do not urge them. Even in this city of Peking, there are thousands of shopkeepers, artisans, and official underlings or servants whose families remain in the adjoining provinces or prefectures, while they carry on business, even to old age, making an annual visit home. Much more then would the women decline to cross the seas, and this tends to make the emigration largely consist of young men, whose withdrawal from the maritime districts has left behind such a disproportion of girls and women that it has been adduced to account for the prevalence of infanticide, which the inhabitants of Amoy, Hinghwa, and other places in Fuhkien, do not hesitate to confess exists among them. Even with a large increase of knowledge, I do not think that Chinese married women could be induced to emigrate to much extent; it is not their custom; their husbands can get other women if they choose where they are going; they can manage to support themselves; their little feet disable them from traveling with ease; in short, like the Shunamite, they prefer to dwell among their own people, and not infrequently, too, prefer to have their husbands go off. I have heard that most of the "female Chinese" (as they are termed in this query) who have gone to California have been public women; but I have no data as to their numbers, or whether any of them go back to Hong-Kong.

Thirteenth. Do you know whether the returned Chinese retain any affection or regard for the Government of the United States, or for its people; or do they understand or endeavor to learn anything of its institutions; or is their sole motive for emigration merely the love of gain, with the settled intention to return to their own country, and not to become permanent citizens or residents of the United States?

In reply to the various points grouped under this head, I am unable to give much information derived from personal contact with returned emigrants. The affection which a returned miner or washerman would have for the Government of the United States would depend upon the way he had been treated by the people; and in early times this was usually not such as to encourage him to go back. Few of these men had such an education, either, in their own language as would fit them to write an account of their experiences and describe the country they went to, so as to make known its institutions, its extent, its productions, and its resources, even if they wished to do so, and yet their contact with countrymen and friends has no doubt diffused a certain knowledge of the United States throughout the province. The impression made from these reports must have been rather favorable, or the emigration would have diminished and not increased.

Among the mass of Chinese throughout the whole land, I have no doubt that the United States is regarded as favorably as any other foreign country, perhaps more so; but this involves very little knowledge after all, so ignorant are they of the condition and position of outside regions. This better knowledge of the United States, however, is only partially owing to the returned emigrants. I do not suppose that the Chinese usually go to California with a settled intention to stay or to return; they go there as they go to Siam—to better their condition, get work, or see what they can. Most foreigners come to China for much the same reasons. The most of them are too old to learn English properly, and seldom attempt to master our written language. Thrifty and economical at home from necessity, they carry these habits with them, lay up all they can of their earnings, which they send or take home with them, and probably make few connections in our country. Of the tens of thousands who have returned to Kwangtung, only a very few come in contact with foreigners, and of these few still fewer are able to give an intelligent opinion on such subjects as our American institutions and people; tell the difference between an alien and a citizen, or decide whether they had any affection or regard for the country or not. It is unreasonable to expect it in the great majority of cases, in the sense which I think this question involves, nor would the officials ever think of inquiring from them about the land of their sojourn, and the emigrant himself would keep aloof from his rulers. It may be assumed, with respect to most of them, that they hope and intend to return to China when they have made money enough, so far as they make any definite decision; but I think none go with the design of becoming permanent citizens in the same sense that European emigrants leave their homes to settle in the United States. They have never discussed the question, and have little idea what is involved in it.

Fourteenth. In your opinion is emigration from China to the United States increasing or diminishing, comparing it with the past?

I have no means of answering this inquiry, as it involves an examination of the shipping reports at Hong-Kong, or a comparison of the censuses taken in California and other States.

Fifteenth. What, in your opinion, is the effect upon California and the United States of the Chinese immigration as regards commerce, industry, and morals? What would be the effect of a continued flow of that immigration if continued in the same ratio as in the past?

The purport of this inquiry as to the effect upon California and the United States of the Chinese immigration upon commerce, industry, and morals, opens a wide range of remark. Its advantage to commerce depends altogether upon the extent of their trade; if that increases as their numbers increase, it swells the total of the port of San Francisco. The transportation of so many people to and fro of itself gives employment to ships and merchants to no small extent, and they themselves make a trade; so that one would think that there can be no doubt that they have been a benefit to the general commerce of the State. No complaint is made that Chinese firms, settled there, refuse to submit to the imposts and taxes levied on their trade, although they have managed to keep it pretty closely in their own hands, so far as supplying their own people with Chinese goods. All these goods would never have been wanted, and much other collateral traffic would never have existed, if there were no immigrants; but these remarks are so self-evident that I fear that I have failed to see the real bearing of the inquiry. If its aim is to ascertain whether the gold and silver carried home by these people is a loss to the State, I should say it was not. They have earned it by their industry, and left its equivalent in their labor. The precious metals form one of the common products of the country; the supply is greater than the needs require for carrying on the business, as the comparatively high prices of labor and living show, and their outflow does no injury, therefore, to any interest in it. They constitute the riches of California to a very limited extent, and it is because she has so much wealth in other things that she retains so great a proportion of the mineral products which are not wanted to buy those other things from abroad. The Chinese can never impoverish California by carrying home their earnings.

The real point in this question is probably whether the effect of their presence upon the industry of the country is good or not; whether it interferes with the labor already there so as to entail damage upon the interests connected therewith; and the condition and needs of that industry should decide the answer. That the Chinese laborer was once in demand, and even necessary, every one who crosses the plains on the Pacific Railroad will acknowledge, for, without him, it would not have been built when most needed. Other public and private works were begun because he was ready to do them, and were completed or are now going on because he is still there. Labor, like gold and silver, naturally seeks the best market, and no laws can prevent capitalists employing it in preference to that which is higher-priced. Competition in labor must equalize itself, and will do so sooner or later, unless force or discriminating protection is employed to prevent it, an issue that is very improbable in the United States. Chinese industry will soon rise in value, as the immigrants become skilled in doing what is wanted. If the complaint is now that it depreciates other kinds, the same cry was heard in the Atlantic States thirty years ago; but prices found their natural level.

I have heard the suggestion that a ready means of excluding the Chinese would be to abrogate the treaty between the United States and China, or at least to annul Article V of the supplementary part, known as the Burlingame treaty. Not to lay stress upon the fact that this portion of the treaty was urged upon the Chinese authorities by our own Government—and they accepted it with some hesitation, allowing fourteen months to elapse before they would exchange the ratifications—it can be easily proved that, even if this fifth article was abrogated, it would have little or no effect upon the emigration. The imperial government can no more control the movements of its subjects, or keep them within its territory, than the President can restrain those of our citizens; neither power can control or limit emigration or travel. Furthermore, as almost no Chinese go to the United States directly from China, and no treaty between these two countries could influence emigration from British territory, or prevent ships loading at Hong-Kong from receiving passengers, the proposition to abrogate this article shows how little the question has been studied.

It would besides be a strange proposal to make to the court of Peking to abrogate an article in a treaty almost forced upon its acceptance less than ten years ago, because the Emperor's subjects had acted on its suggestions more extensively than we expected they would. He might well reply that the whole treaty had better be made void; for he had found by troublesome experience that its clauses and articles giving us the right of consular jurisdiction over our own citizens, the privilege of travel in his dominions, the permission to propagate Christian doctrines among his subjects, the liberty for ministers to reside at Peking, with other stipulations forced upon him in 1858, were all in the highest degree objectionable, injurious, and derogatory. He would gladly have all the treaties become a dead letter, and if one power came with a proposal to annul or amend one article, there might be hope that the yoke imposed by the various

treaties might be taken off. The mere proposal on our part to substitute another article regulating or limiting the free emigration from China to America in place of this Article V would be humiliating, and a moment's thought will show how useless the substitution would be if it could be arranged.

This emigration is the result of wider intercourse between the two countries. Here an overflowing population has found out that a demand exists there for labor, and its employment in our fields and shops will certainly benefit our industry. The struggle in China is rather between the machine-factured goods of western lands and the manufactured goods of native make, and the former seem to be gradually winning. The struggle in the Pacific States just now seems to be between Christian, civilized labor, with its higher and better demands for the soul and body, and pagan unskilled labor, nurtured in a lower grade and content with less. The natural tendency would be to elevate the latter, as the results have already proven to some extent, for the immigrants soon seek higher knowledge and have more wants. The fear that they may injure the industry of the State seems, too, judging by the past experience, to be based a good deal on the complaints of those now out of work in this time of general depression, and those who can make themselves heard in public meetings and the newspapers, which the Chinese cannot do very easily. They wish to find a reason why the demand for their labor has ceased, and take this immigration as the excuse and the cause. It will cease as soon as it finds no field, and the Chinese will stay at home or go elsewhere; for in California they begin to feel that there is a social ban upon them, a disfavor like that with which the official and educated class in their own country look upon foreigners. There is nothing to be said in behalf of such a sentiment on either side, but the American has the least excuse for it, and happily is doing much to remove it by teaching his visitors and diffusing truth among their countrymen at home. Our whole country can easily give employment to a few myriads of industrious Chinese, and if those who came over had landed at half a dozen ports instead of all coming in at one, their presence would probably cause little remark, and they would quietly scatter over the land.

The effect of this immigration on the morals of the Americans among whom it comes, depends almost wholly upon what they themselves do to prevent the bad results which may ensue. If the higher civilization and Christian energy of the American people in California cannot devise means to remove the ignorance, abate the prejudices, and enlighten the paganism of those thus brought to their doors, it is weak indeed. But the highest efforts of benevolence cannot do everything; law and force must aid them. For instance, I may refer to the crowding of so many people into lodgings quite insufficient for their accommodation; and if no means are taken by the authorities of the State or city to prevent or remedy the evils arising from their herding together in houses where neither air, light, nor cleanliness exist to make them fit for human habitations, I do not decide which is most to blame, or which is likely to suffer the most. The Chinese are quite ignorant of the laws of hygiene, and in their own land they sicken and die from neglecting them, and must do so until they learn and follow a better way. How much more they are likely to live regardless of consequences in other lands, where they have no power usually to better themselves in these respects, but are compelled to live as their landlords make them. The morals of a community suffer when its members live in confined or badly ventilated houses, and it is certainly within the functions of the local authorities and boards of health to compel the Chinese to live so as not to endanger the lives, health, and best interests of themselves or their neighbors.

One means of preventing injury in these respects—and its benefits would extend much wider than the improvement of houses—is, to educate a number of Americans in the Chinese language for official interpreters and translators. One cannot blame the immigrants for their misfortune in not knowing how to speak English on their arrival; and it is prudent to meet the difficulty arising from this fact by having men prepared to meet them and help them understand their new relations. These interpreters would be the medium through which the Chinese can reach the authorities directly, either to state their grievances, or learn what are the laws; they would act generally as government agents in making known its orders. Their existence would encourage well-disposed Chinese to go directly to the rulers and state their matters, feeling that they were not shut up to use one of their own countrymen who knew our language. Laws could be promulgated in Chinese, written and oral evidence taken in courts, when there was reason to fear it was altered or misunderstood; and that direct oversight by responsible officers maintained over this alien population which it is the duty of a government to do. In such a case prevention of evil is good government; and it seems to me that one of the most likely means to diminish the injury to morals, is to train competent American interpreters, giving them permanent positions in the local government. Such men are found to be necessary in Hong-Kong, Macao, Singapore, Batavia, and other places where Chinese are under foreign sway. They are as much, if not more, needed in California; and it is my belief that no satisfactory or intelligent relations can be established with the mass of Chinese immigrants until they are brought into direct contact with their rulers. The fact that hundreds of them read

and write English well, does not obviate the necessity of having our own people as well acquainted with their language.

I think that the effects of Chinese immigration upon commerce and industry are on the whole highly beneficial. In respect to morals it will probably be detrimental unless measures are taken to remove the ignorance of these strangers, restrain their vices, and treat them justly. If we, who live in China, had been treated as they have been in the United States, I think a war would have ensued to defend us in the possession of our treaty rights, or we should have had to leave the country. The murders, the robberies, and the cruelties practiced upon the Chinese in California up to March, 1862, as set forth in a memorial from them to the legislature, have been unknown in this land. The contrast is not to our credit.

To prevent the extension of opium-smoking among them; to learn thoroughly the working of their companies and guilds; to encourage them to bring their families; to inform them upon whatever will help them become better—all these duties need to be fulfilled to prevent them from injuring the "social condition of the State," as the legislative resolution appointing this committee expresses it. In the providence of God they have been brought into the midst of a Christian community, and their condition imposes some new duties upon that community, which, if not fulfilled, will entail bad results.

Sixteenth. Is there any superstition or rule of religious faith among the Chinese inculcating the return to China of the bones of their dead dying in other countries, and would legislation in the United States prohibiting the removal of such remains materially affect Chinese immigration?

In their own country the Chinese take pains, and go to much expense, to have their dead buried in the family tomb. It arises from a desire, common in all lands and ages, to be gathered, after death, to one's fathers in the ancestral sepulchre; but is perhaps stronger among this people than elsewhere in consequence of the prevalence of ancestral worship. The practice of removing the bodies of those who die in other provinces to their paternal vaults depends, however, more upon the means of the parties than on any tenet of religious faith. Thousands do carry it out, but the thousands who have not the money content themselves with depositing the coffin in houses erected for this purpose in every large city, there to remain till the family has the means and opportunity to remove it, which usually is never.

If the legislature should pass a law prohibiting coffins containing dead bodies to be exported, it would not probably have the least effect to dissuade men from starting for the gold-hills. None of the intending emigrants would expect to come under its operation; and those living in the State, wishing to send away such coffins, would quietly submit to it, wondering, meanwhile, why such a thing was forbidden to Chinese in the United States, when Americans in China were free to do it. I can hardly suppose such a prohibition is intended. So far as I know, emigrants to Siam and the Indian Archipelago do not send the bodies of their dead back to China, but the majority of them marry and settle where they find employment, which adequately explains the different usage. I suppose that the extent to which the repatriation of the dead from California is carried, has been partly owing to the existence of societies organized for the purpose; and that the societies arose from the condition of most of the immigrants, whose unsettled life led them to subscribe regular sums to defray the expense in case of their death. In many instances they had left families behind them, and were disinclined to be buried in a foreign country where no son or relative would ever worship at their tomb. The society was pledged to send home the coffins of its deceased members, if it took in subscriptions; and to do so was comparatively easy between San Francisco and Hong-Kong. I do not know whether the practice exists among the emigrants to Australia.

The above are the direct answers to the sixteen inquiries sent me in your letter, and contain the information which I am able to give on the subjects referred to, or the opinions I have formed. I must state, however, that on some of the points, my information is probably imperfect, and consequently my opinion must be taken for what it is worth. This remark applies to the answers relating to the Chinese in California rather than to those connected with them in their own land.

In view of the whole subject, it is proper to add a few observations upon two features of this immigration which distinguish it from that arriving in the Atlantic States, and make it objectionable in comparison—perhaps lie at the basis of the dislike felt toward the Chinese by those who have no interest in the labor question. This I suppose is the point which more than all others excites the strong prejudice against them; and yet, so far as I can learn, they have given few grounds of complaint by infractions of the laws.

Their strange language and profound ignorance of our customs, government, religion, and speech, is the first of the two features, and tends to alienate them from the body of our citizens. Many of the points which a new comer wishes to learn about can only be explained by one of his countrymen, whose opportunities have been probably few to learn their nature and bearing, and his ignorance tends to perpetuate and

strengthen that of his querist. The latter therefore enters upon his new life under some disadvantages, though the action of the companies and further intercourse with his comrades gradually remove some of the difficulties of his position. Yet the Chinese language tends to prevent those who talk it from assimilating with the people of other-lands, who are repelled by its uncouth sounds, and seldom have the time or the inclination to study and learn its intricate characters. Such has been the case among the Siamese and Malays, few of whom have learned Chinese; while the Chinese get a smattering of their languages, and then pride themselves on their superiority in being able to read and write their own tongue. This tends to keep up a clannish spirit among the immigrants; and to this day they remain distinct throughout the whole Indian Archipelago, Malacca, and Siam, and take special pains to keep so. It is perhaps true that unless they had combined in some way, and had some bond of union to resist the injustice of native rajahs and employers in those regions, they would have found life a slavery, and their industry a temptation to further oppression. Besides they are the superior race over the native laborers, even in Java and Luçonia.

This language is so curious in its construction that it affords almost no help in learning another, and thus the sounds and sense of our alphabetic languages are alike sealed up to them until they can get the aid of the living voice to convey the one and explain the other. All the English learned at first must be *viva voce*, and this disability tends to prevent most of the immigrants ever learning more than a few words. This is bad for them; and it prevents those who wish to teach and help them from attempting to master Chinese. They often feel their isolation and weakness, and doubtless feel sore sometimes from receiving unjust treatment because they could not explain matters. I do not know how the difficulty is to be got over, for they must remain distinct from other people as long as they know no other language, and are compelled to come more or less under the control of their countrymen who do. I know that thousands are learning to read and talk English through the benevolent labors of Christians, and thereby the evil is lessened; yet this is a drawback to Chinese immigration that lies beyond the reach of laws to remedy.

The arrival on our shores of so many men, none of whom bring their families, and few of whom are married, is the second objectionable feature of this immigration. It throws them together in denser communities than is desirable, strengthening their worse peculiarities by preventing them from coming in contact with those who would make them better. They naturally cluster in small communities because they are so helpless as individuals, at least until they have been long enough in the country to explain their wants. This, combined with their low ideas of morality, tends to neutralize the meliorating and elevating influences which would by degrees affect them if they were settlers with their families. As a whole, there is no prospect of their getting wives in the United States, and this adds a certain force to their longing to return home. In their own land they are remarkably domestic, and their regard for parents, wives, and children forms a pleasing trait in the national character. In California those who would like to keep house are, as it were, unable to do so.

How to obviate this objection attending this immigration needs an intimate acquaintance with the Chinese on the spot, and I venture no suggestion. I have heard two modes mentioned, one a discriminating poll-tax against those who remain unmarried after a certain number of years, the other to grant certain privileges to those who brought their families; but both are probably impracticable. Few persons probably wish to pass any regulations looking to the Chinese coming to or remaining in our country. Yet they are likely to come, and it is the boast of our nation that we offer a place for the people of every clime, and the boast is a just one. The evils hitherto attending their presence have been less than the benefits, and indirectly we have rather aggravated the evils by not doing something to segregate them, and to some degree prevent overcrowding. This end is one of general importance, though municipal and sanitary regulations for effecting it demand constant oversight to see them carried out, and strict measures to repress or remove the evil. The habits of the Chinese at home lead them to live closer than is good for health; but there the climate allows them to sleep and live out of doors much of the year, and this tendency is increased in our country by economical motives, and still more, probably, by necessity, as most of them have little or no choice in most cases where they shall lodge. Their employers probably take little thought, too, in general, how laborers hired for a job or a season get along in this respect, if they seem to be satisfied and do their work.

S. WELLS WILLIAMS,
Legation of the United States to China.

PEKING, *June* 30, 1876.

No. 45.

Mr. Seward to Mr. Fish.

No. 106.] UNITED STATES LEGATION,
Peking, July 10, 1876. (Received September 5.)

SIR: The Woosung Railway was opened on the 30th ultimo, between Shanghai and Kungwang, the half-way station.

The exercises were not imposing, but it seems worth while to transmit to you the newspaper account of them, so that it may be on record.

On the 1st instant trains were run, upon which Chinese were given free passages. A second newspaper slip inclosed will show you how they availed themselves of the opportunity.

The government does not appear disposed to take any further notice of the enterprise.

I have, &c.,

GEO. F. SEWARD.

[Inclosure.]

OPENING OF THE WOOSUNG RAILWAY TO KUNGWANG.

[From the North China Daily News, Shanghai.]

Yesterday was consummated, in comparative quietness and with little ceremonial an event that is likely to be the forerunner of the greatest political and social revolution that has marked either the past or modern history of China, an event that will do more, if properly followed up, to bring the people of this great empire within the fellowship of nations than almost anything else that could be devised. It is the thin end of a wedge, powerful enough to break the toughest obstacle to which its force can be applied. So familiar have foreigners become with the mighty changes wrought among western nations by steam-locomotion, that to attempt to enlarge upon them would be to indulge in what would seem to be the merest platitudes. The facts and their corresponding benefits are so well known to us that novelty has given place to custom and familiarity, and the history of the old coach-road, with its dashing four-in-hand, is now only to be found recorded by pen or pencil, or in the spasmodic efforts in a few favored resorts of the old country to revive, as a source of pleasure, that mode of transit which, till within a very few years, was the only means of business-locomotion. But the four-in-hand clubs will never be able to do more than effect a similitude of the old glories of the road, for it is impossible to retrograde. Steam has conquered, and will go on conquering, even in China. Here there are no old coach-interests to set aside, no roads to render next to useless; all is fresh and novel as regards the introduction of steam on land, and the widest possible expanse is presented to the skill and energy of the modern engineer. The only interest to be overset is the self-interest of a class, large, it is true, of itself, but small in comparison with the immense population to be benefited. In the early days of railways in England, the strongest opposition was offered to their introduction, even by the so-called enlightened classes. Noblemen and gentlemen objected to the trigging out of a line near their country-seats, and even the inhabitants of inland and sea-coast watering-places petitioned against their towns being annoyed by their introduction. In fact, to such an extent was this opposition carried that Parliament was obliged to step in and enact the compulsory-powers bill, (as it was familiarly called,) which, by enabling the promoters of railways to secure land at a somewhat reasonable price, gave such an impetus to the construction of the iron ways that in a few years they spread in all directions, the sinews of wealth and prosperity. The benefits derived were soon seen to be so great that all opposition ceased, and the sound of the railway-whistle was everywhere welcomed. And given a fair start, so will it be in China. Steamboats were quickly adopted; opposition ceasing, railways will as quickly follow.

The little line, the opening of four miles and a quarter of which, between Shanghai and the village of Kungwang, we have now to record, will soon, it is to be hoped, prove to be the parent of the system foreshadowed in the map of Sir Macdonald Stephenson in 1864, when even the Woosung Railway was not thought of, and when the mere mention of the future introduction of steam-locomotion was treated as a myth.

But it is time to notice the modest proceedings of yesterday. The line being so far

completed, it was deemed unadvisable to delay the opening any longer, and accordingly the managers issued invites to as many ladies and gentlemen of the settlements as the six carriages, which at present constitute the total passenger rolling-stock of the company, would comfortably accommodate. That number was 164, and we believe all accepted the invitation. Half past five was the time appointed for the start, from the goods-platform, at some distance down the line from where the Shanghai station is in course of erection, and almost to the minute, the guests having taken their places, Mr. Morrison, the engineer and traffic-manager, gave the word "Go," and the first "puffing billy," (appropriately named the Celestial Empire,) in China, drawing a regular passenger-train, gave its premonitory shriek and whistle, and quickly began to glide out of the station amid the cheers of those assembled on the platform. The open country was soon reached, and as the train went steadily along at about fifteen miles per hour, and with a remarkable absence of oscillation, the country people at work in the fields simply ceased from their labor for the little time occupied in passing by, and then quietly resumed their employment. They seemed immensely interested, but decidedly in the sense of enjoyment rather than hostility. Several bridges and crossings were passed, at each of which there was a group of lookers-on, but these probably had been so accustomed to the daily passing to and fro of the little engine Pioneer with the ballast-wagons, that the sight of the passenger-carriages with the larger engine was no great novelty. Kungwang was reached in seventeen minutes, and here, the company alighting, found a suitable little station, with passengers' waiting-room and offices; a siding being also provided to allow the passing of the up and down trains. In the waiting-room, which, by the way, is open on the side fronting the line, as at home, was provided an ample supply of champagne and cake. The popping of corks was soon heard, and bumpers were drank between friends of many different nationalities to the success of the first railway in China. These ebullitions of congratulation were, however, centralized soon afterward by Mr. Medhurst, who, mounting a table in response to repeated calls, and amid loud cheers, said:

"Ladies and Gentlemen: You will all agree with me that this is one of the most eventful days that China has ever seen. It is that which witnesses the opening of the first railway; and we owe it almost entirely to the energy and perseverance of Mr. Morrison. I got up here to ask you to give three cheers for Mr. Morrison, and to join with me in wishing success to this magnificent undertaking."

Three loud cheers followed the speech; and a well-known resident shouting, "Three cheers for Messrs. Jardine, Matheson & Co.," these were given with like heartiness, and this was all the ceremonial observed on a day that certainly marks the commencement of a new era in the history of China.

Half an hour having been pleasantly spent in this way, the engine was once more attached to the train, the passengers resumed their seats, and the homeward journey began; fifteen minutes only being consumed in the run up to Shanghai, where the passengers separated, greatly pleased with the success of the little excursion.

Before closing our notice of this interesting event, a few particulars regarding the progress of the line itself may not be uninteresting. The line, which is merely an experimental one, constructed with a view to something better following, is of only 2 feet 6 inches gauge. All the earthwork is finished, and the station-houses at Woosung Creek and at the signal-station at Woosung, are built. Seven miles of rails are laid, and out of a total of thirteen bridges, twelve have been completed; and the thirteenth is in progress. The permanent station at Shanghai is in course of erection, and we understand it is to be of an ornamental character. It may also be of interest to know that the weight of the engines is 9 tons, in working order, and that each engine carries enough coal and water to run to Woosung and back. The carriages are well built and fitted, are 5 feet wide, and constructed to accommodate twenty passengers in the first class, and twenty-four in the second and third. The total length of the line is nine and a quarter miles. After the principal part of the earthwork had been executed, a contract was entered into with Mr. Dixon, of London, for the completion of the line, and the supply of all necessary materials and rolling-stock; this portion of the work having been executed under the direction of Mr. Morrison, the company's engineer.

It is not likely that the line can be open to Woosung in time to be of much service during the hot weather of this summer. The delay arises from the whole enterprise being on such a small scale. A sufficient amount of plant, and the experienced staff requisite to carry out the railway work quickly and efficiently, would have cost as much as the whole line. In the case of any large works being carried out they could be executed very much more rapidly.

By an advertisement in another column, it will be seen that regular trains are to run each day; but we believe that to-day will be devoted to free trips to Chinese, many of whom showed a strong desire to accompany the foreigners on the trial trip. Indeed, a lot of Chinese made a rush for the train directly the foreigners were clear of the station, and were allowed to run back in it to Kungwan, to their immense gratification.

The news of the partial opening of the line was, we believe, flashed to England by wire immediately after the return to Shanghai.

The neighborhood of the Woosung Railway presented a remarkable scene all day on Saturday, thousands of Chinese presenting themselves to take advantage of the opportunity offered for a free jaunt to Kungwan and back. There was much good-humored pushing and striving to get into the carriages, but the precautions taken by the officials prevented any mischief arising, and it is gratifying to record that no accident occurred. Several trips were made during the day, and the enjoyment of the excursionists was unlimited; laughter and shouts of delight prevailed in all directions, while it was impossible not to notice the intense disappointment of those who failed to obtain seats. The popularity of the new mode of travel is secured beyond doubt, and the news of the success attained is sure to travel far and wide.

No. 46.

Mr. Seward to Mr. Fish.

CHE FOO, *September* 5, 1876. (Received November 7.)

SIR: I wrote in my last dispatch regarding the Yunnan case that the British minister was insisting, in his negotiation with the Viceroy Li-Hung-Chang, upon the production and trial of the former governor of Yunnan and of certain other prominent persons who were charged by him with complicity in the attack on Mr. Margary and the Brown party, but that as he had once departed from this line of action, he might perhaps be expected to do so again.

What I thus foreshadowed has come about.

After several unavailing conferences, Sir Thomas Wade consented to state proposals for a different solution of the difficulty, and requested two or three days in which to bring them forward. At about the same time I had the opportunity to intimate to him that I understood that he was likely to agree with the Chinese to refer to the diplomatic body for discussion the commercial issues which he had from time to time brought before them, and to suggest that he should be careful in stating the terms of such a reference, for the reason that these issues may be called up by any of the ministers, and it may be more agreeable to them to choose for themselves the moment for the discussion, and because his reference would necessarily be more or less tainted by the fact that it grew out of a grievance with which other powers have no special concern.

Sir Thomas proceeded to say, upon this, that he was not intending to propose a reference of the commercial issues in question to other powers, as he had done at Peking. In that instance he had asked the Chinese to call upon his colleagues, and himself to unite with the foreign office in a general consideration of those issues. He should now propose to the viceroy a formal adjustment of the lekin question. This adjustment would be subject, of course, to the approval of the British government and all other governments having treaties with China. He then proceeded to state to me the terms contemplated by him, which were, roughly, as follows: The Chinese, in concert with the foreign powers, shall mark out a district at each port within which no lekin taxes shall be levied on foreign goods, but beyond which all goods shall be liable to these taxes, saving those in transitu under transit-passes, which shall be issued as at present, and that in return for permission to levy lekin taxes in this way the Chinese shall open a very considerable number of ports.

At a subsequent brief interview I expressed to him some doubt as to the merit of his scheme, and at a later moment he came to me to ask

what my objections were. To this I responded that they were general and special; that I doubted, generally, the wisdom of a settlement with the Chinese in which he should accept as valuable an adjustment of a grave matter, which adjustment would become operative only after it had been approved by all the powers having treaties with China. It would, in my opinion, be much wiser to secure positive and unqualified terms in settlement of his grievance. To this Sir Thomas said that the question is a very serious one; that his settlement of it would be in the general interest; and that, whether or not the approval of the other powers can be secured, he is bound to essay a settlement. He then asked my special objection to his proposal. I responded that it is my understanding of the treaties that opium may be dealt with by the Chinese government as it chooses, after it has paid the import duty of 30 taels and passed into native hands, and that his proposal would make it free at each port within a given radius; that I must look with disfavor upon any scheme which would have this result, and that, in my opinion, my Government would do the same. To this Sir Thomas responded that the letter of the treaties would not support my view, and that the British supreme court at Shanghai had held that the Chinese cannot tax opium within the "port area," but that he knew the intent of the treaties to be such as I had stated, and that he could not consent to construe them in a different spirit.

I answered that I was more than gratified by this avowal of his position in regard to opium, and that, so construed, his proposal in regard to lekin struck me favorably.

You will remember that I have more than once expressed the opinion that foreign imports which have paid the external or tariff dues may be carried to any part of China, under the provisions of the treaties, without being subject to any further taxation, saving the dues levied at the barriers, which latter dues may be commuted under the transit-pass system. The Chinese hold that they have a right to tax foreign goods in native hands as they like, whether at the ports or in the interior. The English government has long failed to resist the Chinese upon this point, and it has come about in this way that lekin taxes are everywhere imposed by them.

If this procedure is likely to become a settled rule, it will be much better for all concerned here to accept Sir Thomas Wade's scheme. Perhaps six-sevenths of all the merchandise imported into China is of British origin, and it is not to be expected that other governments will be disposed to stand, under these circumstances, upon rights which the chief party in interest is disposed to yield. The opening of a large number of ports, on the other hand, will prove a great boon to foreign interests. I have spoken of this with particularity in my notes on the German treaty-revision scheme.

I have been much pleased by the British minister's unqualified admission of the merit of my view in regard to opium. So long as China may tax or otherwise deal with opium in native hands as it likes, so long will there be an answer ready to be returned to those who make the opium-trade a stigma to all foreigners, and to the English in particular; for if the Chinese take no steps to prevent the consumption of the drug by their people, having full power to do so, the responsibility of other governments need not be considered of the most serious sort. But whenever an attempt shall be made to limit the control which the Chinese can exercise over opium in native hands, a different aspect of the case will appear.

The credit to be accorded to the British minister for his position in

this matter will be more patent when I state briefly the importance of the interest involved. The Indian government derives a profit in India from the opium monopoly which amounts to about eight million pounds sterling. The opium brought to China paid a few years ago for all the merchandise which China had to export, and still pays for nearly two-thirds of all exports. In fact, England's commercial and military supremacy in India and the East is very largely due to the drug. It is worth more to her than the gold and silver mines of our Pacific coast.

It is manifestly not our policy on moral or economical grounds to defend the trade. How far opium is a deleterious agent with those who use it has been much discussed, doubtless with exaggeration on both sides. That it is very harmful I do not at all doubt, neither can I doubt that it cheapens whatever we have to offer to the Chinese in exchange for their products, and makes these products more dear to us.

In my conversations with my colleague we ran over at some length the merits of the Yunnan case proper. I could not fail to notice that the answers to my remarks indicative of doubt whether the inquiries made have brought home to the government of China, or any of its officers, proof of complicity in the attack on Margary, were not such as to disabuse one of the conclusions which I had reached. I do not mean to say, however, that this fact relieves the Chinese from a certain responsibility. As I have heretofore pointed out, the government did not show at the outset a right appreciation of the gravity of the matter, and it may be found that their efforts throughout have not been well calculated to bring out the truth.

I took occasion also, in talking with my colleague, to remark upon the importance of the mint and post-office proposals, the most unsatisfactory condition of the judicial system when foreigners and Chinese are the parties concerned, the abuse of inward-transit passes, and the radical imperfection of the outward-transit-pass arrangement.

It remains to be seen what kind of a settlement will be effected by the minister, if any. The Chinese have undoubtedly been brought to feel that the results may be serious if they fail to close matters now. A good deal of what the minister has to urge is simply the observance of actual treaty obligations. His main proposal, that in regard to lekin taxes, is based ostensibly upon a give-and-take principle. He has departed from the more rigid and difficult part of his demands in regard to the Yunnan case proper. Perhaps we may, under these circumstances, look with some confidence for the settlement of this long-standing business.

I have, &c.,

GEORGE F. SEWARD.

No. 47.

Mr. Seward to Mr. Fish.

CHE FOO, *September* 11, 1876. (Received November 7.)

SIR: Just as the mail is closing I learn that the British minister has closed his negotiation. The indemnity to be paid by the Chinese is fixed at 200,000 taels.

I have, &c.,

GEORGE F. SEWARD.

COLOMBIA.

No. 48.

Mr. Scruggs to Mr. Fish.

No. 114.] LEGATION OF THE UNITED STATES,
Bogota, July 17, 1875. (Received September 10.)

SIR: I inclose herewith, for the information of the Department, a printed copy of a translation from Spanish to English of an elaborate and somewhat curious report made to the last Colombian Congress on the subject of the proposed interoceanic ship-canal.

Although this report is evidently fanciful in many respects, it is, nevertheless, interesting as showing the history of the proposition to unite the two oceans by water communication, and besides contains some statements which are conceived to be of interest in the United States.

I have, &c.,

WILLIAM L. SCRUGGS.

[Inclosure.—Translation.]

Report of a commission.

CHAMBER OF REPRESENTATIVES.

Gentlemen Representatives:

One of the most important projects that, in my humble judgment, can come before the legislative chambers, and one that most justly claims your attention, has been submitted to your consideration, and by you transferred to my investigation, in accordance with our parliamentary usage.

In it is decreed the exploration of the isthmuses of Panama and Darien, by Colombian engineers, with the view of opening an interoceanic canal, and it is therein also resolved, in virtue of the results obtained, to take such action as may be necessary for the satisfactory execution of the said work.

We observe, then, that the draught refers to the greatest of all modern undertakings, and not only awards to Colombia a share in material interests, which no one has ever denied to her government, but also lays open to her sons a worthy field for their labor in the exploration, and the glory of the discovery, if it be discovered, of the route we are in search of. Allow me, therefore, on the present occasion to recall to your recollection some of the data most concerned with the question to-day before us, which will serve to justify my voting unreservedly in favor of the project, and also in some measure to shield me from the charge, which I already hear preferred against me, of being visionary.

The communication of the two great seas, or rather the continuity of the one known in the middle of the fifteenth century, onward to the regions of the east was dreamt of by Columbus at the same time that the existence of a new continent arose on his imagination; and after the lapse of centuries this has ceased to be a magnificent dream and has become a necessity which civilization, commerce, and industry require to be satisfied.

But the world is now moved not by the holy wish of launching a new crusade, such as Columbus imagined, nor yet by the sole desire of shortening the route to the seas of Asia in quest of the fabulous commerce in spices; the interests of industry, which requires expansion, are in league with the sentiment of brotherhood among the nations, which looks to strengthen itself by increasing the facilities for intercourse and commerce, for easy, safe, and daily contact.

With that intuition of genius which converted the Genoese dreamer into the discoverer of the New World, he directed his course in his fourth and last voyage to the precise spot where such a communication might possibly be found, or where the excavation of a canal might be possible, if it does not already exist there.

A few years after, and when the discoverers were exploring the barrier which, more real than the ancient columns of Hercules, impeded the passage of their vessels, the immense satisfaction fell to Balboa of being the first to overlook the waters of the Pacific Ocean, and with the discovery of the Sea of the South, the idea naturally arose of uniting it to the one they had already at their command, together with the noble longing to force its secrets and to subjugate its greatness.

It is not to be doubted that throughout the whole region of the American isthmus the discoverers received informati on and data, more or less exact or exaggerated, regarding the existence of a communication between the two seas.

The Indians Cirambiráes, Cobiras, Bebogaráes, Catures, Samarabiráes, &c., of Darien, and those of Chepo, Bayano, and the Gulf or San Blas, in Panama, as well as the dwellers on the isthmus of Tehuantepec, were unanimous on the point. Hernan Cortez reported the same to Charles V, and so, naturally, did Pedrarias Davila and his successors in the government of Darien and Panama, and thence arose the project of perfecting a canal, the mission of two Flemish engineers, the adverse report of the council of the Indies, which judged its realization would be against the interest of the monarch; and, ultimately, the order, as laconic as peremptory, of Philip II, which prohibited, under pain of death, not only the navigation of the rivers which might serve as outlets to an interoceanic canal, but also the very discussion of such an undertaking.

At the first outset Charles V had ordered the conqueror of Mexico to make inquiry among the natives concerning the secret of the communication. Soon after his successors, in obedience to the notions of their epoch, which saw in a system of restrictions the perfection of economical science, preferred themselves to erect a barrier to their own greatness, in order not to jeopardize even that commercial monopoly with which their colonies were doomed to be oppressed. Later, and on account of information reported to Madrid in 1605 by Don Basco de Mendoza, the monarch issued the royal decree of May 24, 1607, in which he commands Don Juan de Borja, (who at that time governed the 'new kingdom,') to proceed to explore the provinces of Chocó, Dabaibe, and the valley of Baeza, which Mendoza had extolled for their remarkable richness and singular conditions. He states in his report, among other notable facts, the following:

"'The great river of Darien rises in this province, in the rear of the city of Auserma, from a large cordillera, which runs from north to south. Its course lies from south to north, and the Indians that dwell on its banks affirm that it is divided into two branches, and that one of them enters the Atlantic in the bay of Acla, and the other the Pacific at Port Peñas, between the city of Panama and the port of Buenaventura; and this is what Don Pedro de Acuña, governor of Carthagena, is attempting to discover in the vessel called the Napolitana. The fact is of the greatest import, as well for the mere communication by water between the two oceans as for the facilities it affords for the commerce and traffic of these opulent regions.'"

The president Borja commissioned Don Sancho de Camargo to make the exploration referred to. He repaired to the spot, and in the report he presented some months after are to be read seven or eight concurrent depositions made by inhabitants of Toro, who were the first explorers of Chocó, to the effect that the Indians with whom they traded and were concerned in their mining establishments did pass in their canoes from sea to sea.

Limiting the study of the question to what concerns our own territory, I ask, "Did such communication exist? Was it really available?"

In reading the history of the buccaneers who, in the seventeenth century, ravaged our coasts and sacked our cities, one is often surprised to notice the rapidity with which they changed the scene of their operations—now plundering the coasts of the Atlantic, now appearing with their terrible squadron in the waters of the Pacific, and this with so short an interval as can hardly be conceived possible even to-day, when steam has minimized distance.

The belief in the existence of such a canal is supported by the weighty opinion of Don Dionisio de Alcedo, who has the reputation of being a first-rate authority in all matters of American geography, and doubly so as regards the isthmus of Panama, of which region he was governor for many years, and it may be remarked that he undertook the governorship in 1743, that is to say, at a period when the memory of a serious event that occurred there sixty years before might still be fresh, and that he proceeded from thence to Madrid to print his masterly "Geographical Dictionary." Therein, at the word "Mandinga," he says as follows:

"The river referred to rises in the mountains of Chepo, and runs eastward, till it discharges itself into the bay to which it gives its name. Its course is four leagues long, and its navigation is prohibited under pain of death, on account of the facility it offers for passing from the Atlantic to the Pacific, as was done in the year 1679 by the pirates Juan Guarlem, Eduardo Blomen, and Bartholomé Charps."

These three pirates were tried by the audiencia of the New Kingdom, and, as they could not be had in person to suffer the punishment of their crimes, they were burned in

effigy in Santa Fé, while they were in person all the time burning and ravaging the cities of the Pacific.

Their process existed some years ago in the archives of the vice-royalty, where I saw and examined it; latterly, when those documents were ordered to be arranged, it was not to be found, as far as I know, and we must be satisfied to establish the fact, and to charge the loss of the process, and the sentence it contained, on the time, and not on Spain or Colombia, when the first burned pasteboard effigies, and the second beheld with indifference the rich deposit of our miseries and wrongs as a colony, of our hereditary rights, and even of our glories as an independent nation. Twenty years after, in 1698, the West Indian Company was organized in England, under the direction of William Patterson, who, with 1,200 men, established himself in the Gulf of Urabá, where he founded the colonies of New Edinburgh and Caledonia.

Attacked by the forces of Spain, abandoned by the British government, before which a protest was lodged by Spain, France, and Holland together against the encroachments made by its subjects on foreign soil, the colonists had no alternative but to abandon their settlements. But their chief had already explored those regions, and, convinced of the existence of a canal which only required perfecting, addressed a memorial to William III, entitled "Patterson's Four Passes," in which he solicits the support of the British monarch, and offers him, "in the pass called of Paya, the key of the two oceans, because it is in that point where they communicate." And we must not imagine that Patterson was a mere adventurer, from his having been the leader of the Darien scheme. When he came to our shores he was already celebrated as the founder of a no less colossal enterprise than the Bank of England. Having closed our ports against foreigners for fear of contraband, it is not surprising that Spain should have persisted in preventing the navigation of our rivers and neglected the exploration of the isthmus; or if anything was done in that direction, it was sure to be with such reserve that it is probable no trace of it is to be found in our days, even in the archives of the mother-country.

But in the lapse of time ideas underwent a gradual change. In 1765 the government of Spain opened to commerce the ports of the Windward Islands, and in view of the good results of the measure, the Minister Galvez extended the license in 1778 to the ports of Chili, Buenos Ayres, and Peru, and subsequently to those of the New Kingdom. With what was then styled "free trade" entered the idea of searching for the communication of the two oceans, which had been looked upon up to that period as a danger.

In 1771 the attention of the government was called to a petition preferred by Don Antonio Bunarcli, viceroy of Mexico, who solicited permission to make a regular survey of the isthmus of Tehuantepec. The inhabitants of those regions, and especially those of Tabasco, had since the time of Cortez given certain information which led to the expeditions of Diego de Ordaz and Grijalva, and to the discovery of California, and in 1745 the people of Pajaca had presented a memorial in which all the data bearing on the case were collected, in support of their petition to be allowed to explore the isthmus. Their memorial suffered a delay of twenty-six years in reaching Madrid. From thenceforward the idea began to prevail of making use of the water of the river Paso, in order to unite the Chimalapa with the Huazacuala. I will not, however, enter into the discussion of these projects, but rather return to our own country.

The Spanish government not only sent direct expeditions; it also issued its orders to the archbishop viceroy, Don Antonio Caballero y Gongora, to have Darien explored, and facts collected with regard to the enterprise, of whose practicability it was now concerned to be accurately informed. Every step taken in these matters was under the strictest reserve, and it is quite possible that Spain desired that even her own subjects should be in ignorance of the interest she was taking in this majestic enterprise, and still more that the European governments should be so, who would doubtless have looked with jealousy on any increase of her power in those regions; so that these expeditions were made ostensibly for the foundation of colonies to convert the Indians, for building small forts, and for preventing smuggling by the posting of detachments. Ariza, Arevalo, Latorre, Donoso, Pacheco, and others worked vigorously in the exploration, and sent in reports, sounded rivers, drew out maps; and their work was not in vain, in all probability, if we may judge from the following *précis* of one of the reserved notes sent by the secretary of the India office to the viceroy:

"That His Majesty approves of the judicious measures taken by your excellency for the conclusion of the communication of the two oceans by the isthmus, of which you gave a report in your No. —," &c.

Unhappily the copies of the reserved notes which were sent from this side to Spain do not exist in our archives, and we may easily imagine how much light would be thrown on the subject if we had before us the letter to which the above was in answer.

Why, it may be asked, if sufficient indication, and even proofs, were at hand of the existence of a natural communication, which only required clearing out to be perfectly

adequate for the passage of large ships—why was no action taken, or even suggested, in the matter?

The reply is simple. Because already in Europe the movements which led to the great revolution of 1780 had commenced; because Spain, which had helped to set free the British North American colonies, feared that the plague of liberty might be propagated in her own colonies, where it imported more that she should dominate than that they should prosper, and, ultimately, because the convulsions of the French revolution, and the continual wars in which the nations of Europe were engaged, gave her no time to breathe, and soon deprived her even of the means of preserving her sovereignty over her ancient vassals, who were now claiming the rights of majority.

At the beginning of this century, the project of an interoceanic canal acquired the same importance as the development of American commerce, which was now tolerably unshackled and able to walk alone, and in the Edinburgh Review of July 7, 1809, a periodical distinguished for the strong sense and discretion of its articles, one was published, of which I possess only the following extract:

"By means of scientific explorations conducted by order of the Spanish government, the hydrographical deposit of Madrid constructed, in 1805, a spherical map of the Caribbean Sea and coast of the main-land, from the island of Trinidad to the Gulf of Honduras. This map revealed an important discovery. The bay of Mandinga, an immense gulf which commences ten leagues to the east of Portobello, penetrates the isthmus to within five leagues of the Pacific. This prodigious bay, which is almost closed by a chain of islands lying very near each other, which stretch right across its mouth, has never been navigated by any Europeans except Spaniards, and, as is clear from all the more ancient maps in which it is marked, was never believed to penetrate so far inland. A river empties itself into this bay, to which it has given its name. This river is navigable, and, as we know, reaches very near one of the tributaries of the Chepo, a large river which falls into the Gulf of Panama. We do not yet possess any positive data respecting the navigability or capacity of those rivers, but what Alcedo tells us, namely, that their navigation was prohibited by the Spanish government, under pain of death, for the express object of obstructing the communication with the Pacific, and the circumstance, well proved, of the, buccaneers having passed from ocean to ocean in this neighborhood, authorizes us to believe that the region presents extraordinary facilities for the great undertaking." All these data are confirmed by what Humboldt says respecting the isthmuses of Panama and Darein. He got his first information in Carthagena, from his friend Don José Ignacio de Pambo, who had been struggling for years to obtain the free navigation of the Atrato, as the best means of fomenting the commerce of our coast, by opening a road to regions so abundant in gold and platina. Some time after that philosopher, the glory of a century and the honor of a nation, made known how, as far back as the year 1788, the cura of Novita had got his parishioners to unite the waters of the Atrato with those of the San Juan by means of the quebrada called La Raspadura. And later, after examining that region, he gave his support to the opinion of Cochrane, (who had also examined it,) and maintained that there was no considerable cordillera "between the bay of Cupica and branches of the river Atrato." Later observations of Berghaus confirmed the opinion that, in the isthmus, the cordillera, instead of being a continuous barrier, becomes in two or three parts a series of hillocks.

On this account, probably, he recommended that our investigation should be extended to the east and southeast of a line drawn from Panama to Portobello, and directed attention to the bay of Mandinga, where one of the above-mentioned abasements of the cordillera takes place.

And let it not be objected that Humboldt did not personally traverse that part of the country; science, practice, and genius sufficed our ill-fated Codazzi to mark on his map the bank of the river Carare as not likely to be, as it really is not, marshy; the same sufficed for Leverrier to be able to announce the existence of the unknown planet, which should fill a void in the regions of space and supply the correction needed to explain the irregularities of the others.

Ultimately, allow me to call to mind that in 1868 Señor Juan de D. Ulloa communicated to the secretary of finance and public works an account given by Señor Manuel Lozano, one of the principal inhabitants of Quibdo, with reference to a party of caoutchouc traders, headed by Silverio Quesado.

According to their statement, a gunshot on a certain lagune, formed by the overflowings of the Atrato, may be heard on the river Paya, which falls into the Gulf of San Miguel. At the end of three centuries we have an indication of the route discovered by Patterson and not yet explored. The data here adduced suffice to afford, if not a sound basis, at least an excuse for the opinion, which, in my mind, rises to a conviction, that a communication between the two oceans does really exist by means of a natural canal, which only requires to be perfected.

Let us now see what has been done toward excavating one, since the existence of one ready made is probably not credited.

The colonies, as soon as they shook off the yoke of the metropolis and obtained breathing-time from the more imperious demands on their attention, dedicated themselves to the task of discovering the desired communication, and with so much the greater ardor, as they were now emancipated from the narrow colonial circle, and were ambitious to give wings to their commerce, to their industry, to their very life, the horizon of which they were anxious to widen.

The principal routes were five, according to tradition and the explorations theretofore made:

That of Tehuantepec, making use of the waters of the river Paso in order to connect by artificial means the waters of the Chimalapa, which fall into the Pacific, with those of the Huazacalco, which enters the Atlantic.

The isthmus of Nicaragua, communicating the lake of that name, from which issues the river San Juan, with the bay of Papagayo.

That of Panama, in which several lines have been proposed.

That of Darien, or the Cupica route, in which each explorer has fancied he has discovered a new and the true line.

And, lastly, the communication between the Atrato and the San Juan.

Let us briefly recapitulate some of the works undertaken or orders issued with a view to determine the question in the privileged zone of our own territory.

Even before Bolivar saw his dream of emancipation realized, he paid especial attention to the construction of a railroad or the opening of a canal through the isthmus, and was even desirous of repairing to the scene of action, in order personally to superintend the works that might be engaged in. (Report to Congress, 1823.)

The Colombian plenipotentiaries, in the famous congress of Panama, were directed to advance every reasonable scheme for effecting such an important undertaking, in which the commerce of the world was interested, and still more the newly-redeemed republics. The Government of the United States of America, alive to the importance and magnitude of the work, instructed its agents on that memorable occasion, through its illustrious Secretary, Clay, to offer to Colombia its cordial sympathy and co-operation.

As soon as the congress was closed, having left no mark of its having been held beyond the memory of a great idea still-born, the Libertador took measures to have that region explored; and Messrs. Lloyd and Falmare passed the years of 1828 and 1829 in making the requisite surveys, on account of the republic, with the view of either cutting a canal or constructing a railroad. The latter project was looked on with greater favor, as it was considered of quicker realization and less cost. Those two eminent explorers decided in favor of a line which should cross the valley of the Trinidad, a tributary of the river Chagres, and thence make for the waters that fall into the bay of Chorrera.

The calamities with which the republic was visited at that epoch, by the series of civil wars which resulted finally in the disruption of the glorious Colombian nationality, interrupted the measures which had been initiated, and which were already giving such promising results, and the matter was only resumed in 1835, when the law of 29th May was passed, "conceding a privilege to the Baron Charles de Thierry for the opening of a canal by means of the waters of the river Grande, the river Chagres, and the bay of Limon."

As the company destined to perform the work did not commence operations within the stipulated period, the Government of Washington commissioned one of its citizens, Colonel Biddle, to solicit the same or a similar concession.

In the negotiations on the affair, he met with something that seemed to him like an obstacle, which was in our country, as it were, the first manifestation of public spirit in favor of an important undertaking, which might ennoble the nation, and at the same time enrich its citizens. Rich Granadian capitalists were also candidates for the same privilege, and all the concurrents finally agreed to solicit the privilege in common, which was conceded by the legislative decree of June 6, 1836, and adjudged to Colonel Biddle and others on the 22d of the same month.

Nothing came of this concession, however, and the congress passed a law on the 1st of June, 1842, which set forth that, previously to declaring forfeited the concessions of 1835 and 1836, the government should issue proposals at home and abroad for the excavation of an interoceanic canal.

From that time forward permission has been given to every corporation or individual that has desired it to explore the isthmus, and many privileges granted, which remain in writing.

Among the chief of them we may mention that of the decree of 18th June, 1851, in favor of Messrs. Manuel Cárdenas and Florentino González, to excavate a canal within the zone comprised between the mouth of the Atrato, in the gulf of Urabá, to a league higher than the confluence with the Napipi, and on the Pacific side between the 8th parallel to the point of San Francisco Solano.

At the same date a concession was granted to Messrs. Ricardo de la Parra and Benjamin Blagge to communicate the Atrato and San Juan, between the 5th and 6th parallels.

A law of 1st June, 1852, conceded to Messrs. Patrick Wilson, Eduardo Cullen, Charles Fox, John Henderson, and Thomas Brassey the right to make a canal between the gulf of San Miquel and the bay of Caledonia.

In 1854 the government ordered General Codazzi, chief of the chorographic commission, to explore both the route indicated in the latter concession, as also those by Atrato, Napipi, and the bay of Cupica; but the political complications of that year caused the undertaking to be delayed, which meanwhile Dr. Cullen, on account of his company, and Lieut. G. Strain, in the corvette Cyane, on account and by order of the North American Government, were executing with unexampled constancy and vigor.

In 1855 the law of 25th April granted a new privilege to Messrs. Joseph Gooding and Ricardo Vanegas, for excavating a canal between the 4th and 8th parallels.

As these privileges never advanced much beyond the written stage, on the 25th January, 1867, the government of the nation made a contract with Señor Eustacio de la Torre N, as representative of Mr. Henry Duesbury; but it was disapproved by Congress, who did not judge that the necessary legal requisites had been fulfilled; and on same date (June 27) it passed a law giving detailed instructions to the executive, in order to promote a new contract, within or without the republic.

The invitation offered abroad produced the desired effects, and we see that the Colombian legation in Paris, in a note dated 7th September, 1867, (Diario Oficial, No. 1292,) communicated the proposal made by Messrs. Roehn, Ragon & Chevey, the first of them a celebrated naturalist, who had resided many years in Darien, to excavate a canal, which they asserted would only require two sluices. This proposal had to be rejected, as not being in conformity with the conditions laid down in the law of June 27, 1866.

Successively were received the proposals of Page, Keppel & Co., of Puydt, Ayrian, and several others, among which attention was chiefly directed to that made by Count Gleichen, both on account of his connection with the royal family of England, as well as for the marked support it received from Lord Clarendon.

And not only private individuals, but also governments, now began to take interest in the work. The minister of Peru in Bogota communicated to our government, in a note dated 29th March, 1869, an order from his own to subscribe for a great part of the capital which might be required for the work, judging, without doubt, that the American governments must have a greater interest in the realization of the project than any others.

The treaty of the 14th January, 1860, between this republic and that of the United States of America had already been arranged by means of their respective plenipotentiaries, Messrs. Miguel Samper, Thomas Cuenca, and General Cushing. As this was disapproved by the Colombian Senate, the negotiations were renewed a few days after between the plenipotentiaries Messrs. Justo Arosemena and Jacobo Sánchez, on our part, and Mr. Hurlbut on the other. These signed the treaty of 26th January, 1870, which was approved, with slight amendments, by the law of 8th July of the same year, and would be now in force if its ratification had been exchanged within the prescribed limit. Meanwhile, scientific and laborious men have made several explorations which have added precious data to the geography of our country. Some have obtained the conviction of the feasibility of a canal at more or less cost; others have come from the ground persuaded of its impossibility. Dr. Cullen, with the constancy that is born of conviction, and which is the force of genius, has been indefatigable in the cause; and in the long list of those who have taken part in this crusade of civilization, mention should at least be made of Garella and Courtines, of Oliphant, Kelley, Prevost, Gisborne, Bourdiol, de Puydt, Ayrian, Admiral Davis, and Commodore Thomas Selfridge, who is at this moment in those waters. Some have fixed upon the rivers Sucubti and Chucunaque to strike for the waters of the Lara and the Sabana; others have judged it preferable to make for the river Sabana from the rivers Sabardi and Morti; some have explored the Mandinga and the Mamoni, to fall into the Pacific by the Bayano and Chepo; others are in favor of the Truandó and Bandó; others of the Tuyra, and others the Napipi. But among all these explorers, not one Colombian is to be found; and of all these explorations, one only, that of the year 1828, was made by order and at the charge of the Colombian government. The explorers have been attracted by their own interest or commissioned by their respective governments; they have surveyed the wonderful nature of our territory; it is possible they have been able to judge of the feasibility of the grand project; but besides the generalities indispensible for obtaining a privilege, each and every of those celebrated explorers possesses to-day in that respect a greater number of data than our own government, the owner of that territory which the conquest could not dominate, and which the republic has beheld with such lamentable indifference.

The project which has been committed to my examination supplies a remedy to this unhappy state of affairs. By all means let our waters and our territory be open to the flags of all nations of the world and our archives to every worker of civilization, in the same manner as the Colombian heart is ever open to all who arrive with the saluta-

tion of a brother; but let us not be those who know least of our own territory, nor those who least enjoy the riches with which Providence has seen fit to bless it.

If this account of the explorations made up to the present time without our receiving any details, which are sure to be valuable, concerning them, be not sufficient to persuade us of the propriety of exploring by means of Colombians the territory of the isthmus, remember that we have just seen published in the public journals the opinion of the celebrated Lesseps regarding the American canal, which he thinks practicable by the Nicaragua line; but, with all due respect to the man who has renewed and improved the ancient canal of the Pharaohs, allow me to state that he neither possesses, nor has any one been able to furnish him with, irrefragable data, which would warrant him to decide in favor of the Nicaragua route or concerning its relative superiority to the lines which our country offers.

We purpose providing ourselves with those data; let us judge with our own eyes of the veracity or of the erroneousness of the reports rendered by competent Spanish explorers and recorded by prudent chroniclers; and in no case let ours be the only flag unknown in the regions of Darien and the solitudes of the Isthmus.

As it would be trespassing on your attention to furnish in this paper further data concerning the existence of a natural canal, I hereby, from this moment, undertake, in case this project becomes a law of the republic, to draw up for the use of the Colombian Commissioners, whom the Government may appoint, a detailed examination of the whole subject, as complete as my humble abilities may accomplish; a task that will certainly be laborious and might be tedious, were I not buoyed by the desire of being useful to my country, and by the hope that my name may thus be heard in the regions of the Isthmus, since I am both unable and unqualified to take service in person among its explorers; because, were I able to do so, Núñez de Balboa, the knight of the ocean, will not have felt greater joy at overlooking from the summit of the Andes the vast solitudes of the Pacific, which opened so wide a horizon to his ambition, than that which I, the least of the Colombians, should feel on gliding on still waters through the channel which unites the two oceans, and on being one of the first to contemplate so vast a field opened to the glory and prosperity of my country.

I will here conclude the present too extended report, and in accordance with our parliamentary usage, I propose: "Let the bill which ordains the exploration of an interoceanic canal through the Isthmus of Panama be read a second time."

J. M. QUIJANO OTERO.

BOGOTÁ, 1*st April*, 1875.

No. 49.

Mr. Scruggs to Mr. Fish.

No. 147.] LEGATION OF THE UNITED STATES,
Bogotá, February 5, 1876. (Received March 9.)

SIR: The National Congress of Colombia assembled and effected its organization on the 1st instant. Señor Abraham Garcia and General Serjio Camargo were elected respectively president and vice-president of the senate, while Señors Miguel L. Gutierrez and José Gynacio Carvajal were chosen president and vice-president of the house of representatives.

This arrangement is accepted here as an indication that the election for next President of the Union, soon to be decided by congress, will fall upon Señor Parra, the present governor of Santander.

Immediately after the organization of both houses the minister for foreign affairs, Señor Rueda, presented the President's annual message.

* * * * * * *

The message is quite lengthy, and is a state paper of more than average ability. It reviews at great length the late political disorders in the republic, and makes a somewhat elaborate defense of the policy of the Executive connected therewith. Its opening sentences may be translated as follows:

"The last time that I had the honor to congratulate you upon your constitutional reunion I had the satisfaction of announcing that peace had prevailed throughout the entire republic, and with it the continu-

ance of material and moral progress; that the relations between the national and state governments had been maintained peaceably, and upon a constitutional footing, and that the federal administration had been facilitated by the general tranquillity, by the ample income to the treasury, and by the reforms which had been so prudently inaugurated. But, in addressing you this time I have not the same cause of congratulation. The year just past has left in our history new traces of blood and mourning. The catastrophe which in a few moments ruined one of the most prosperous sections of our country, bringing sudden death to thousands of our people, and annihilating great property interests that represented years of industry and labor; an unjustifiable rebellion, the suppression of which demanded very great sacrifices; the molestations and anxieties caused by the paroxysms of passion engendered by partisan strife; the consequent decay of commerce and productive industry; the scarcity of money occasioned by constant remittances abroad in order to preserve our national credit; and, above all, the loss of confidence produced by our civil disorders, are among the unhappy incidents in our history of the past year."

The President then enters into an elaborate review of the origin, progress, and close of the rebellion in the coast States of the Union; premising that, heretofore, all political disturbances had originated in some issue of principle or national policy, but that the one under consideration was without any issue whatever, either of principle or policy, and therefore all the more unjustifiable and criminal on the part of its instigators. He devotes much space to a defense of his policy with respect to the rebellion; his sending of national troops within the limits of the disaffected States for the purpose of restoring order; his announcement to the representatives of foreign powers, resident in the capital, that the government was unable, for the time being, to afford protection to foreign interests on the Atlantic coast; his requesting their influence for the protection of such interests in the national ports and custom-houses, &c.

Among the chief reasons given by him for sending General Camargo with a national force to Panama, in April, 1875, is an agreement by his predecessor, in 1873, with the representative of the United States, to keep a sufficient force in Panama for the protection of the Isthmus transit against the violence of local factions. In view of the executive decree of December 15, 1873, issued in accordance with the agreement referred to, the national administration, he says, could not have done otherwise, under existing circumstances, without bringing reproach upon the government.

This compliance with a plain duty was the beginning of those complaints made against the national administration. It was pretended by the conspirators that the movement was made purely in the interests of one of the presidential candidates, as against the other; and, upon this pretext, and in open violation of law, General Camargo was, by order of the governor of Panama, arrested and thrown into prison. Still unwilling to precipitate the country into civil war, the President says he forbore to employ force for the reparation of this outrage; but, in the hope of an amicable adjustment, appointed the "peace commission" of June following, composed of discreet men of both factions. The practical failure of that commission, and the subsequent outbreaks in the States of Bolivar and Magdalena, rendered force necessary to the existence of the government itself; and accordingly it was reluctantly resorted to. The strong measures thus adopted soon resulted in raising

the blockade of the Magdalena, the complete dispersion of the rebels, and the re-establishment of public order on the coast.

"Our relations with other countries," says the President, "have continued cordial and peaceful;" a fact which he is pleased to attribute "to the constant good disposition manifested toward our country by the very honorable diplomatic body, resident in the republic," &c.

Alluding to the long-existing controversy with Venezuela, regarding boundary limits, the President says: "The conferences which have taken place between the plenipotentiaries of the two countries respecting territorial limits, throw all the light possible upon these questions; but, since the differences between what each believes to be right are so considerable, there does not appear any better way of putting an end to the dispute than by arbitration. Thus far, however, this mode of settlement has been insisted upon by Colombia without any tangible results."

Among the more important measures recommended to congress by the President, is an increase of the army; such revisions of existing laws as may enable the general government more effectually to comply with its treaty stipulations with foreign governments, looking especially to the protection of foreign interests on the coast; more effective legislation in support of the public-school system, the encouragement of internal improvements, and the prompt payment of the interest on the foreign debt of the nation.

This foreign debt, as the department is already aware, is due principally in England, and is set down by the President at something over ten million dollars, or about five hundred thousand less than the estimate of last year. The domestic debt, it is claimed, has been reduced to about six millions; thus making the present aggregate liability of the government somewhere in the neighborhood of sixteen million dollars.

I have, &c.,

WILLIAM L. SCRUGGS.

No. 50.

Mr. Scruggs to Mr. Fish.

[Extract.]

No. 155.] LEGATION OF THE UNITED STATES,
Bogotá, April 7, 1876. (Received May 9.)

SIR: In his annual report to the National Congress, (transmitted herewith,) the Colombian secretary of foreign affairs says the relations of this republic with foreign powers are in a satisfactory condition; that all questions of a serious character have been discussed in a spirit of moderation and amity, and that "some of the more important issues have been decided by means of arbitration, the most conciliatory and expeditious method adopted by modern civilization," &c. (P. 99.)

With the exception of a few petty reclamations growing out of public disturbances on the coast, there is not, according to the honorable secretary, any questions pending between Colombian and European powers.

The reclamations by the government of Great Britain, on behalf of Messrs. Cotesworth & Powell, merchants, of London, having been satisfactorily adjusted by arbitration, there remains no question of importance with that government. (Pp. 104; also 164 to 200.)

The reclamation preferred by the United States for the seizure and occupation of the steamer Montijo, in April, 1871, has, he says, "been finally decided, according to the terms of the convention of August 17, 1874, resulting in an award of $33,401 in favor of the Messrs Schuber, as owners of the vessel named." (P. 120.)

Of the Centennial he says:

> The Government of the United States did us the honor to invite our participation in the international exhibition at Philadelphia; a festival of civilization proposed by that powerful nation as the centennial of its independence; and our Congress, in its two former sessions, appropriated $25,000 for this important object, thus giving proof of our sincere appreciation and of our earnest desire to be represented therein.
>
> Meantime Mr. Scruggs, the minister resident of that republic, transmitted to this department photographs, maps, and plans of the grounds and buildings of the exposition, from which it was seen that our country had a space allotted therein * *; * * nevertheless the government, in spite of its desire to be represented, could not give its attention to the subject in due time, because the last Congress had barely closed its session before it became evident that all our resources would be necessary for the preservation of public order. The constant fear of revolution, and the apprehension that all available resources would become necessary to prevent it or put it down, rendered any expenditures, other than those of the most urgent necessity, unadvisable. Hence we found ourselves under the necessity of foregoing this opportunity of making our industries known among the greatest peoples of the world," &c. (P. 121.)

The controversy with Venezuela respecting boundary limits "remains substantially where it did at the beginning of last year." The discussions at Caracas and Bogotá resulted in a proposition by Colombia to refer the whole matter to arbitration. This was declined on the part of the Venezuelan government, which subsequently recalled its minister plenipotentiary, General Marques. Some time afterward a Dr. Blanco was sent to Bogotá, by the Venezuelan government, in the capacity of cabinet courier, with instructions to renew negotiations, provided Colombia would withdraw a certain objectionable note addressed to General Marques by the then secretary for foreign affairs. The note referred to contained the word "usurpations," as applied to Venezuela, for occupying the disputed territory.

This condition being declined, except upon the further condition that Venezuela would withdraw from the territory named, Dr. Blanco took his immmediate leave, some months since. (Pp. 122, 123.)

Similar questions of boundary, but in somewhat less aggravated form, are still pending between Colombia and the republics of Costa Rica, Ecuador, and Peru, as also with the empire of Brazil. The latter is quite an old one, and may at any time become fruitful of trouble. (Pp. 129 to 139.)

The secretary concludes his elaborate report with some pertinent remarks relative to the existing legislation of the republic in its application to resident foreigners. The Department is already aware that, by an absurd law of April 16, 1867, the strictest neutrality is enjoined upon the federal government in all cases where a portion of the population of any state may rise in arms against the local authorities with a view of overthrowing the state government, and of establishing a revolutionary one in its stead. ("Law of public order," April 16, 1867.)

The honorable secretary thinks that while this law may be in accordance with the spirit of the Colombian constitution, and admirably adapted to that political equilibrium which renders local tyranny impossible, it is nevertheless a fruitful source of controversy with foreign powers, who hold the general government responsible under treaty stipulations for infringements upon the rights of their citizens resident or doing business within Colombian territory. Nearly every local revolution, he says, brings its rich harvest of foreign reclamations against

the federal treasury, and this must continue so long as the general government remains powerless to interfere in the states for the preservation of order. He therefore recommends the repeal or modification of the law referred to.

Speaking of the numerous diplomatic questions and heavy reclamations resulting from the inability of the national government to protect life and property in the states, the attorney-general, Dr. Gomez, frankly concedes that, under existing legislation, and the precedents growing out of these reclamations, it is better to be a resident foreigner than a native citizen.

* * * * * * *

I have, &c.,

WILLIAM L. SCRUGGS

No. 51.

Mr. Scruggs to Mr. Fish.

No. 156.] LEGATION OF THE UNITED STATES,
Bogotá, April 8, 1876. (Received May 9.)

SIR: Señor Don Aquileo Parra, the new president-elect of this republic, was formally inaugurated as chief executive of the nation on the 1st instant.

The diplomatic and consular body having been previously invited to take part in the inaugural ceremonies, met at this legation at the hour of 11½ a. m., on the day named, and at 12 m. proceeded in a body, conducted by the under secretary for foreign affairs, to the capitol building.

The senators and representatives, in joint session in the hall of the latter, awaited our arrival, and received us sitting. We were conducted to reserved seats on the floor of the hall in the rear of the senators, but in front of the representatives.

A few moments later the president-elect, under escort of a joint committee of both houses, entered the hall; the members all rising to receive him. He was conducted to the speaker's stand, beside the presiding officer.

The latter delivered an elaborate introductory address of nearly an hour's duration. At its conclusion, Señor Parra delivered his inaugural speech. It was quite brief in comparison with the preceding discourse; and, for this country, singularly plain and practical.

* * * * * * *

No oath of office was administered. The president's inaugural address concluded the ceremonies; after which he retired under military escort to the executive mansion. The diplomatic and consular body followed soon afterward, and, upon entering the grand reception-hall of the mansion, where the president awaited us, the American minister resident, as dean of the diplomatic corps, made the usual congratulatory address in Spanish.

In a special message to the senate, on the same day, the president submitted the following nominations to cabinet positions: Dr. Manuel Ancizar to be secretary of interior and foreign relations, Señor Carlos N. Rodriguez to be secretary of treasury, and General Rafael Niño to be secretary of war and navy. The nomination of a secretary of finance and public improvements ("Hacienda y Fomento") is withheld for the

present. The attorney-general, Dr. Ramon Gomez, was, under the provisions of the constitution, elected by joint ballot of both houses of Congress some days since.

The new administration enters upon its duties in the face of a very powerful opposition within the ranks of its own political party, and a grave mistake, during the first six months, may prove fatal to its existence and to the peace of the country.

I have, &c.,

WILLIAM L. SCRUGGS.

No. 52.

Mr. Scruggs to Mr. Fish.

No. 163.] LEGATION OF THE UNITED STATES,
Bogatá, May 7, 1876. (Rec'd May 31.)

SIR: A person calling himself Anthoine de Gogorza, and claiming to be a citizen of the United States, arrived here some days since on a mission connected with the Darien ship-canal enterprise. He claims to represent a syndicate formed in Europe for the purpose of re-surveying the route between the gulfs of Darien and San Maguiel, known as the "Acquiacua" route, by the Cacarica and Paya.

Gogorza claims to have information of the most conclusive character, obtained from the archives of Spain, showing that a passage from sea to sea existed as late as 1680, "when a body of above four hundred buccaneers in eighteen large canoes, with their stores, armaments, and ammunitions, crossed from the swamps at the west of the Atrato to Real de Santa Maria, on the river Tuyra, which they took by surprise and pillaged."

Upon this information he says he made an exploration of this pass in 1866, which he describes as follows:

> The Northern Cordillera, following the curve of the Atlantic coast in a general direction from northwest to southeast, lessens rapidly in altitude toward 8° 7′ north latitude until it disappears in the swamps of Cacarica; while the western range of the Andes, or Southern Cordillera, coming from the south along the Pacific shore in general direction toward the north-northwest, ends abruptly at Cape Garachine without extending any spurs across the valley of Tuyra.

The two distinct Cordilleras, above described, are represented as "passing each other on a parallel, and leaving between them the deep valley of the Tuyra, which, at a comparatively recent period, was the sea-channel, and formed the natural separation of the two great American continents."

Mons. Gogorza asserts positively that he has himself traced this pass in company with a competent engineer; that he made the fact known to Commodore Selfridge at the time of the survey of the Atrato-Napipi route; that he invited that officer to accompany him thither with a corps of competent engineers and test the matter for himself; but that this "was declined upon some frivolous pretext, and the resurvey of the route indicated was never made."

It will be observed that Mons. Gogorza's theory is quite similar to that set forth by Señor Quijano Otero, the Colombian engineer, an English translation of whose curious paper was transmitted with my No. 114 of July 17, 1875. As the one seems to corroborate the other, the subject is creating some interest here.

The object of Gogorza's mission hither is, ostensibly, to solicit from the Colombian government concessions of privilege to make the survey of his route by a corps of French, English, and Colombian engineers, and should this survey verify his statements, then the concession of exclusive rights and privileges to form an international company to open a ship-canal across the Isthmus, said company to deposit a large sum of money as a forfeiture in case the work should not be successfully carried out.

This project has been all the more favorably received by the Colombians, by reason of the general belief that the United States commission have made a final report in favor of the Nicaraguan route. And what is perhaps an object of more surprise, the scheme is quietly encouraged by one of the foreign legations here, while some of the British naval officers, as if acting in concert therewith, have been writing letters to parties here denouncing the Nicaraguan route as practically impossible, and pointedly insinuating that the surveys of the Atrato and Panama routes by the United States commission amount to a farce, if to nothing more serious.

* * * * * * *

I have, &c.,

WILLIAM L. SCRUGGS.

No. 52.

Mr. Scruggs to Mr. Fish.

No. 170.] LEGATION OF THE UNITED STATES,
Bogotá, June 5, 1876. (Received July 14.)

SIR: The Department is already aware of the character and purpose of Mons. de Gogorza's mission to this country. Its final result only remains to be stated.

On the 26th ultimo, the President approved an act of Congress authorizing him, under certain conditions, to negotiate for opening a ship-canal transit between the gulfs of Darien and San Maguiel.

This law, a copy and translation of which I inclose, forms the basis of a contract with Gogorza, a copy and translation of which I likewise inclose herewith.

It will be observed that under this arrangement the syndicate have eighteen months' time, from the date of the contract, in which to make a report of the exploration of the proposed route of the canal; that should this prove satisfactory, eighteen months more are allowed in which to form a company for construction; and that within ten years thereafter, or at farthest seventeen from the date of this concession, the canal must be opened to the public service.

I have, &c.,

WILLIAM L. SCRUGGS.

[Inclosure 1 in No. 170.—Translation.]

Law of May 26, 1875, (No. 33,) to authorize the executive power to negotiate for opening canal communication between the Atlantic and Pacific Oceans.

The Congress of the United States of Colombia decrees:

ARTICLE I. The government of the United States of Colombia favors a project of canal communication between the Atlantic and Pacific, across the Isthmus of Darien.

Said canal to be without locks or tunnels, and outside the belt conceded to the Panama Railroad Company.

ART. II. For this purpose and for the celebration of a contract to which the present law shall give origin, the national executive is hereby authorized to treat with any individual or company which may offer the following securities and agree to the following conditions:

1. The duration of the privilege to be ninety-nine years from the time the canal is put into public service, either in whole or in part, and from the time the company shall commence collecting transportation duties.

2. From the date of the contract for opening the canal the government can neither construct itself, or authorize the construction by others, of another canal between the two oceans through the territory mentioned in the first part of this article; and should the grantee or contractor construct a railway auxiliary to the canal across said territory, neither the government nor any of its grantees can construct another interoceanic railway in the same territory during the time conceded for the opening and benefice of the canal.

3. The exploration, survey, and fixing of the line of the canal shall be at the expense of the grantee; said survey and exploration to be made by an international commission of competent engineers, whereof two shall be Colombians. The commission of engineers shall be named within six months from the date of the contract for opening the canal; within the six months next following (excepting unforeseen accidents) the exploration of the general line of the canal shall be made; and within the six months next succeeding the grantee shall make report to the Colombian government or to its diplomatic agent accredited to France or England of the result of the exploration; said report accompanied by duplicate of scientific observations to show whether the proposed enterprise is practicable, and, if so, its probable cost.

4. The grantee shall have eighteen months' time in which to organize a company for the opening of the canal, counting from the end of the last six months, mentioned in condition 3.

5. Within ten years from the date of the formation of the company for its opening, the canal must be completed and ready for the public use; but if, after the completion of more than one-third of the entire line, and owing to circumstances independent of the will of the grantee it should be found impossible to complete the whole within the ten years specified, the executive may concede an extension of four years more.

6. The canal must have sufficient width, depth, and other conditions necessary to its navigation by steam or sailing vessels of from five to six hundred tons.

7. The necessary wild lands for excavation of the canal and its harbors, the erection of wharves and warehouses, and all necessary appendages, as also for the construction of a railway, should that be decided upon, are conceded to the grantee or contractor, provided said wild lands, together with the canal and the railway, revert to the republic at the expiration of the time of the privilege.

8. A belt of land not to exceed one hundred metros in width on either of its banks is likewise conceded for the use and benefit of the canal: *Provided*, That the neighboring proprietors be not deprived of a perfect right of easy access to its ports and the free use of any and all roads that may be opened thereto by the grantee or the company; and

9. Should the territory through which the canal may pass or the railway be constructed, be the property of individuals, the grantee will have the right to its appropriation, which shall be done by the government according to legal formalities, the proprietors to be indemnified therefor at actual value by the grantee.

ART. III. Within six months from the time in which the commission organized for the exploration of the canal-route shall have reported the results of their exploration the grantee or contractor shall deposit with the bankers of the republic in London $150,000, or 750,000 francs, as a guarantee of good faith.

ART. IV. Two hundred and fifty thousand hectares of wild lands shall be appropriated gratuitously to the grantee or contractor, and this may be done directly by the executive. Said lands, situated on the maritime coasts or on the banks of the canal or rivers, shall be distributed in alternate lots with those reserved by the government. Their survey, in which a commissioner of the government shall take part, shall be at the expense of the grantee.

ART. V. During the whole time of the privilege it is stipulated to the grantee as follows: The use of the ports situated at the termini of the canal for anchorage of vessels; the embarkation of such merchandise as may be therein for reshipment and transportation through the canal; the use of the necessary intermediate ports for anchorage, and for the deposit of articles and merchandise destined for the canal transit, or such as may have been disembarked therein; but the government of the republic reserves the right to station such officers as it may deem necessary in such ports in order to prevent contraband, and the building of the grantee or company should be so arranged as that one person may discharge this duty.

ART. VI. The ports at the termini of the canal shall be free to the commerce of all

nations, and in none of them can import-duties be collected except upon such articles as may be designed for consumption in the republic. Consequently, said ports shall be considered *habilitados* from the time the canal is opened, and there shall be established therein such custom-houses as the government may deem necessary to the collection of import-duty on such articles as may be destined for other ports of the union and the prevention of the introduction of contraband. The officers which the government may deem necessary to this service shall be paid by the company, and their salaries shall be fixed by the government.

ART. VII. The government shall declare the waters of the canal, from ocean to ocean, as well as the ports at its termini, neutral for all time. Consequently in case of war between other nations, or between any one of them and Colombia, the canal transit shall not be interrupted thereby. All merchant vessels or citizens of any nation of the world may enter and cross the canal transit without molestation or detention; provided that no foreign troops be permitted to pass thereby, except by permission from the Colombian Congress.

ART. VIII. The entrance to or transit of the canal shall be most rigorously prohibited to war-vessels of any nation or nations at war with other powers, and whose manifest purpose may be to take part in hostilities.

ART. IX. The grantee or contractor shall have the right to import, free of duty, such instruments, machinery, building material, victuals and clothing for laborers, &c., as may be deemed necessary during the time allowed for the opening the canal.

ART. X. No municipal or national contribution-tax or impost of any kind shall be levied upon the canal, the ships traversing it, or upon the company's tugs, warehouses, wharves, machinery, or other works pertaining thereto, and which, in the judgment of the national executive, may be necessary to the service of the canal during the time conceded for its construction and use.

ART. XI. Passengers, money, precious metals, merchandise, and articles and effects of every kind, passing through the canal, shall be exempt from all municipal or national transit-tax, as well as from imposts of whatever kind. And this exemption shall be extended to all merchandise or effects deposited in the ports, warehouses, or wharves of the company, whether destined for the interior or exterior. But all articles destined for consumption in the republic shall be liable to such national impost-duty as may be established; the collection of such duty to be made at the instance of government officials and according to the regulations dictated by the executive, when the goods are taken out of the company's warehouses.

ART. XII. Passengers by the canal transit will not be required to have or exhibit passports, except in time of foreign war or internal commotion, when the executive may demand them. But vessels carrying their charters and other necessary papers, as provided by public laws and treaties, shall pass the canal transit freely: *Provided*, That vessels without such papers, or, having them, refuse to exhibit them, may be detained and proceeded against according to the laws.

ART. XIII. Vessels carrying articles destined for the works of the canal may, in conformity with Article IX of this law, enter freely at any point of easy access to one or the other terminus of its surveyed route.

ART. XIV. The canal enterprise shall have the character of a public benefice and utility.

ART. XV. The grantee or contractor shall transport gratuitously, in his vessels, men destined for the service of the union; likewise such police force as may be necessary to traverse the route either by rail or water in the interests of exterior security and peace; and should the company be without vessels, it is still obligated to pay the passage of such troops or police.

ART. XVI. All the necessary regulations for the prevention of the introduction of contraband articles under this privilege, will be prescribed by the Colombian government.

ART. XVII. During the period of the privilege granted under this law, the grantee shall have the exclusive prerogative of establishing the schedule of transit tariffs, including rates of storage in his warehouses, the use of his piers and wharves, but said tariff rates shall not exceed sixty-five cents per ton of ballast, nor two dollars per ton of cargo. And, in addition to the tariffs of the company, the government will be entitled, as a national rent, to twenty-five cents upon each ton of transit in the canal. Should the company find it necessary to establish a system for gauging the tonnage of vessels, this must be in accord with the government.

ART. XVIII. The grantee, or his successors to the franchises herein provided, cannot assign or hypothecate them in any manner whatever, to any foreign government or nation.

All differences of construction, or other disputes that may arise from the grant of franchise here made, shall be decided by the federal supreme court.

ART. XIX. A reserve of ten per cent. of the stock issued by the company organized by the grantee, may be held in favor of the founders and abettors of the canal enterprise as a capital stock for his or their personal benefit.

ART. XX. The grantee or his representatives shall forfeit the franchises herein authorized or acquired by contract, made in virtue hereof, under the following-named conditions:

1. Should they fail to deposit, in the manner stipulated with the executive, the sum agreed upon as a guarantee of good faith.

2. Should the work not be formally commenced within the first year of the ten allowed for the construction or the opening of the canal; in which case, the sum deposited as guarantee, mentioned in Article III, will be forfeited to the republic.

3. If, at the expiration of the time fixed in condition 4, Article II, and of the extension therein provided for, a survey and location of the route of the canal shall not have been made.

4. Should the grantee or company violate the prescriptions of Article XX (?); or

5. Should the transit of the canal be suspended, except by reason of unforeseen circumstances, held excusable under the common law, for more than six months.

Paragraph.—In the cases 2d, 3d, 4th, and 5th, above mentioned, the federal supreme court shall decide whether or not the franchises shall have become extinct.

ART. XXI. In all the foregoing conditions under which the franchise is declared lost, the wild lands mentioned in stipulations 6th and 7th of Article II, as also those alienated under Article IV, shall revert to the republic, likewise all edifices, materials, works, &c., pertaining to the canal or company connected therewith.

ART. XXII. The diplomatic or consular agent of the republic resident in the country wherein the company is domiciled, shall be a member of its board of directory, and shall, under the by-laws of the company, enjoy all the prerogatives of the other members.

ART. XXIII. The maintenance of such public force as may be deemed necessary to the security of the interoceanic transit shall be at the expense of the company, and estimated as part of the general expenses of the enterprise.

Given in Bogotá 26th May, 1876.

ELISEO PAYAN,
President of the Senate.
ANIBAL GALINDO,
Speaker of the House.
J. M. QUIJANO OTERO,
Secretary of the Senate.
ADOLFO CUÉLLO,
Clerk of the House.

Approved March 26, 1876.
[L. S.]

AQUILEO PARRA,
President of the Republic.

M. ANCIZAR,
Secretary of State.

LEGATION OF THE UNITED STATES,
Bogotá, June 2, 1876.

The foregoing is a correct translation from Spanish to English of an authenticated law, No. 33, of May 26, 1876, now on file in this legation.

WILLIAM L. SCRUGGS,
Minister Resident.

[Inclosure 2 in No. 170.—Translation.]

Contract celebrated with Anthoine de Gogorza for opening an interoceanic canal.

The undersigned, to wit, Manuel Ancizar, secretary of state for the department of interior and foreign relations of the Colombian government, duly authorized by the President of the union, and Anthoine de Gogorza, for himself and General Stephen Turr, according to sufficient authority exhibited, have agreed to the following:

ARTICLE I. Anthoine de Gogorza, in his own behalf and that of his client, General Stephen Turr, accepts in all its parts, and as part of this agreement, the Colombian law, No. 33, of the 26th of May, 1876, "authorizing the executive power to negotiate for opening canal-communication between the Atlantic and Pacific Oceans," and submits to the provisions and conditions therein made. And in reciprocation the Colombian government hereby concedes to and puts them in possession of the franchises granted in section one, of Article II of the above-cited laws, counting the ninety-nine years of privilege from the date hereof.

ART. II. The Colombian government authorizes General Turr and Sr. Gogorza, putting themselves in accord with the minister of the republic in Great Britain or France, and with Sr. Joaquin Sarmiento, should he be in Paris, to whom sufficient authority will be given, to associate with themselves two persons whom they may deem competent, and proceed to form an international commission of engineers to survey the Isth-

mus at Darien, and at the expense of the grantees to make the exploration mentioned in condition three, Article II of the law above cited, and within the time therein allowed; within twelve months thereafter to make report to the Colombian government of the result of said exploration in the manner provided in the above-cited condition three of the law: *Provided*, That should unforeseen accident, such as earthquake, inundation, or armed resistance of the natives cause delay, a reasonable extension of time be granted.

ART. III. The tracing and fixing of the line of the canal in all its length, as also that of any auxiliary railway that may be projected from ocean to ocean, must be wholly beyond and to the east of a straight line connecting the Cape of Tiburon with the headland of Garachine, whose exact situation will be determined by the exploring engineers.

ART. IV. Should the river Atrato be selected by the engineers as one of the entries to the canal, its mouth through which such entrance is proposed must be channeled and adapted to the ingress and egress of vessels of six hundred tons, and be considered part of the line of the canal. But the navigation of the Atrato, in so far as its channel may not constitute part of the canal, shall remain free and unincumbered.

ART. V. Should the preliminary survey referred to (in Article III) show the practicability of a canal without locks or tunnels, the grantees, General Turr and A. de Gogorza and their associates, will, under the immediate patronage of the Colombian government, be authorized to form, within the eighteen months specified by the law, a company for the execution of the work.

ART. VI. The deposit mentioned in Article III of the law cited, shall be made in such bank as the national executive may designate, the receipt of the bank being evidence of the fulfillment of said obligation. Said deposit may be in bonds of the Colombian foreign debt, at the market-price at the time of the deposit. It is understood that, in case the grantees should forfeit this deposit under provision of section two of Article XXIII of the cited law, the same, with the accumulated interest, will pass, without any reduction, to the Colombian government.

ART. VII. The wild lands ceded by Article IV of the cited law, shall be adjudged to the grantees as soon as the deposit shall have been made. Those situated on the banks of the canal, rivers, or maritime coasts shall be divided into lots alternating with those of equal size reserved to the government, and fronting those reserved to the government on the opposite sides of the canal, rivers, or coasts. None of said lots shall measure less than three nor more than four thousand metros of front on said canal, rivers, or coasts, thus forming an area of, say, one thousand hectares, more or less. Within a belt of six and a half miles (1,000 miriametros) on either side of the canal, the government can concede no lands (to other parties) until the expiration of the ten years from the time of the commencement of the work, or until after the present grantees shall have received the entire quantity ceded them by the Article IV of the law above cited.

ART. VIII. The number of fiscal agents which, under provisions of Article IV, may be placed at the termini of the canal, shall not exceed twice the number in the custom-house at Barranquilla; and their salaries, so far as the same may become chargeable to the company, shall not exceed those allotted to employés of the same class in said custom-house.

ART. IX. Until the contingency mentioned in Article XIX (Article XVII?) of the law above cited, the tonnage of vessels shall be stated in their charters or registers, and that of their cargo shall be set forth in their manifests and bills of lading.

ART. X. The grantees obligate themselves to constitute an agent in Bogotá, duly authorized to represent them in the adjustment of debts and disputes that may arise from adverse construction of contract; and for a like purpose, the government shall name an agent to reside near the domicile of the company. In every case where irreconcilable differences may arise, they shall be submitted to the decision of the federal supreme court.

ART. XI. The term "Colombian dollars," employed in the law and in this contract, signifies silver pieces of 25 grains of 900 each, being equivalent to 5 francs, or 100 cents each.

ART. XII. By the "formal commencement of the work of the canal," mentioned in section 2 of Article XXII of the law, is understood that work upon the line should be continuously executed for three months, by at least one thousand operatives under their respective chiefs, with the necessary machinery, implements, &c., for the excavation of the canal.

ART. XIII. It is understood, and is hereby specifically stipulated, that vessels in the exclusive service of the canal, shall traverse the same free of all tax or duty.

ART. XIV. Five years before the expiration of the ninety-nine of privilege, the national executive shall, with the concurrence of the company, name a commission to examine the canal and its appurtenances, and note what repairs, if any, shall be made before the canal and other property is turned over to the government when the grantees' privilege shall expire.

ART. XV. The nation grants permission to the grantees to establish, at their own expense, any telegraphic lines they may deem necessary to the construction and operation of the canal.

Signed in duplicate, in Bogotá, the 28th day of May, one thousand eight hundred and seventy-six.

[L. S.] M. ANCIZAR.
[L. S.] ANTHOINE DE GOGORZA,
For himself and General Turr.

Approved May 28, 1876.
[L. S.] AQUILEO PARRA,
President of the Union.

LEGATION OF THE UNITED STATES,
Bogotá, June 3, 1876.

The foregoing is a correct translation from Spanish to English of an original contract between Colombia and Senor Gogorza, and which I have seen.

WILLIAM L. SCRUGGS,
Minister Resident.

No. 54.

Mr. Scruggs to Mr. Fish.

No. 178.] LEGATION OF THE UNITED STATES,
Bogota, July 26, 1876. (Received August 26.)

SIR: In April last one Bermudez, a bishop of the Roman Catholic Church, in the State of Cauca, boldly proclaimed against the public-school system of this republic.

Very soon others of the Catholic clergy joined in the crusade, and, in May following, further attendance upon or encouragement of the public schools was made punishable by excommunication.

The result was a concession by the civil authorities, whereby one hour each day was set aside for religious instruction in the schools, under the direction of such priests or churchmen as might be agreeable to the teachers and parents of the children.

This concession, made in the face of threats of armed revolt by the church or "conservative" party, only encouraged further demands. Bermudez and his faction insisted that the entire management of the public schools in the locality of Papyon be intrusted to the clergy.

A commissioner was at once dispatched to the disaffected region, to treat with the heads of the church, and see if some amicable and satisfactory understanding could not be had.

The commissioner was received with anything but cordiality, and given plainly to understand that no compromises were possible. He finally returned to Bogotá to report an unsuccessful mission.

He had hardly reached here when news was received that an armed conflict had actually commenced in the southern and interior of the state.

At the hour of 3 a. m., on the 11th instant, the town of Palmyra was attacked by a force of three hundred men, under the cry of "*Viva la Religion, viva el padre Holguin y el partidor conservador.*" After two hours' engagement, resulting in many killed and wounded, the assailants were defeated, making their escape.

Meantime a force said to be over one thousand strong, well armed, and under command of a Catholic priest named Guerrero, was reported to be marching upon Cartago, an important strategic point in the Cauca Valley. General Payan, with a small force of national troops, was ordered from Honda to the relief of the threatened locality. Very

little seems to be known here of the result; but enough has transpired to induce the belief that Cartago is already in possession of the insurgents, who probably hold General Payan as a prisoner. The State of Cauca has already been declared in a condition of revolt by Governor Conto.

Such is the origin of what promises to become a formidable revolution, should the adjoining State of Antioquia, which is disaffected toward the national government, join the insurgents. I shall, of course, keep the Department duly informed of its progress.

I have, &c.,

WILLIAM L. SCRUGGS.

No. 55.

Mr. Scruggs to Mr. Fish.

No. 185.] LEGATION OF THE UNITED STATES,
Bogotá, August 17, 1876. (Received September 13.)

SIR: Referring to my No. 179, of the 7th instant, relative to public order in Colombia, I have now to report that the States of Antioquia and Tolima have made formal declarations of war against the national government.

The condition of affairs in the Cauca remains virtually unchanged, although we have intelligence to-day of an engagement between detached portions of the hostile forces near La Gránja, resulting in defeat to the insurgents.

On yesterday, President Parra issued a proclamation declaring the republic in a state of war, and calling for twenty thousand additional troops. All citizens between the ages of eighteen and sixty are called upon to enroll their names in their respective districts for active military duty.

Business of all kinds is virtually suspended, and, now that Antioquia has become the scene of active military operations, it is apprehended that the Magdalena River will soon be blockaded, and that mail communication with the coast will therefore be interrupted.

Under these circumstances, I have no assurance that this dispatch and others by this mail will reach you, except, perhaps, after much delay.

I have, &c.,

WILLIAM L. SCRUGGS.

No. 56.

Mr. Scruggs to Mr. Fish.

No. 188.] LEGATION OF THE UNITED STATES,
Bogotá, September 13, 1876. (Received October 28.)

SIR: A few days after the date of my No. 185, of the 17th ultimo, it became known here that a rebel guerrilla force, variously estimated from two to three thousand strong, had taken up their headquarters at the village of Guaska, in the mountains, some four leagues to the northeast from this city.

Another force of similar character, but less numerous, had a rendezvous on the opposite side of the plain to the west, in the vicinity of Tequindama Falls, about five leagues distant.

The object of these movements seemed to be to menace this capital, foment conspiracies against the State government, and, as opportunities should offer, dash into Bogotá, rob and plunder the banks and stores, or, should circumstances favor a bolder policy, depose the President and take possession of the place.

The first demonstration was against a detachment of national troops, some twelve miles north of this city, at Puente Comun, on the Tipaquira road. They were, however, repulsed, and made their escape, with trifling loss, to the mountains.

A few days later they made another dash upon the road near Chopinéro, a small town about three miles north of Bogotá, but were again driven back into the mountains with inconsiderable loss. Some three days later they made their appearance on the crests of Monserrat and Guadelupe, which overhang the eastern surburbs of the city, but soon retired without making any hostile demonstrations.

On the morning of the 8th instant they re-appeared in strong force on the crests of the same mountains, and very soon began to descend to a gorge or depression within musket-shot of the city. A government force, under command of General Acosta, was dispatched to intercept and engage them.

The firing soon became general and quite animated, a considerable force being held in reserve in anticipation of an attack on the west side of the city. The contest lasted something over an hour, when the rebels retreated to their mountain-fastnesses, leaving their dead and wounded, amounting in all to some eighty persons, upon the field.

General Acosta, in his official report, gives a list of fifty-one prisoners, officers and privates, taken during the combat. The number of killed and wounded on the government side is set down by him at seven, but this is probably a moderate estimate. One woman was killed while standing in her door within range of the rebel lines; other non-combatants are said to have been wounded.

Since the events of the 8th, the city has been more quiet. Business of all kinds, however, remains suspended; perhaps fully one-half the business-houses are never opened. The greatest alarm and confusion prevails. All the private houses and streets are kept lighted up during the night, while the troops stationed here are in constant readiness, both day and night, in anticipation of another attack. It is probable, however, that the worst has passed, since we have (unauthentic) reports of a decisive victory to the government troops in the Cauca.

I have, &c.,

WILLIAM L. SCRUGGS.

No. 57.

Mr. Scruggs to Mr. Fish.

No. 191.] LEGATION OF THE UNITED STATES,
Bogotá, September 27, 1876. (Received November 13.)

SIR: It was announced in my No. 188, of the 13th instant, that rumors of a decisive battle in the Cauca had reached this city. Since then these reports have been confirmed; but beyond the fact that the government or "liberal" forces were victorious, comparatively little is known as to details.

The battle occurred on the 31st ultimo, at Los Chancos, about three leagues north of Buga, in the valley of the Rio Cauca. The government forces, numbering in all about 3,500 men, were commanded by General Trujillo; those of the insurgents, variously estimated from 5,500 to 7,000 men, were under command of General Córdoba. With the exception of two regiments of national forces, both armies were composed of raw levies, but generally well armed with Remington rifles.

The battle began at the hour of 8½ a. m. and continued until 2 p. m., resulting, it seems, in the complete rout of the insurgents, whose loss, killed and wounded, is estimated at from 1,000 to 1,200. That of the "liberals" is put down at 500, killed and wounded. As we get these results entirely from the victorious party, perhaps some allowances should be made for the great disproportion in numbers and casualties. It is certain, however, that several stand of arms, including one Gatling gun and large stores of ammunition, fell into the hands of the victorious party.

The insurgents retreated to Manizáles, where they effected a re-organization, and received some reinforcements from the interior of Antioquia, and where they are said to be preparing to make a stand. General Trujillo, who seems to have been reasonably prompt in following up his advantage, entered Cartago on the 5th with his entire force; and on the 10th had sent forward an advance-guard, as far as Santa Rosa, some three leagues beyond, in the direction of the Antioquian line.

Such was the position of the two opposing armies at latest accounts. In an unofficial letter from Cartago, dated the 8th instant, and addressed to the President, General Trujillo confirms the above statements. Since then military operations have been unusually active in the State of Tolima. The national government seems to be concentrating all its available force in that State at Ibaqué, evidently looking to the transfer of the seat of war to Antioquia.

Cundinamarca is still swarming with guerrilla bands, and all travel and communication between this capital and the surrounding country is almost entirely suspended in consequence. There are still three of these bands, variously estimated in the aggregate at from 2,500 to 3,500 men, in the mountains within a few hours' ride of this city, and which keep it in constant alarm.

I have, &c.,

WILLIAM L. SCRUGGS.

No. 58.

Mr. Scruggs to Mr. Fish.

No. 194.] LEGATION OF THE UNITED STATES,
Bogotá, October 8, 1876. (Received Nov. 13.)

SIR: Since the date of my No. 191, of the 27th ultimo, there have been no very important military changes. General Trujillo's official report of the battle of Los Chaucos, since received, merely confirms the statements previously transmitted.

In Tolima, the State administration, which was "conservative" at the beginning of the war, has been overthrown, and the local government is now in the hands of the "liberals." General Delgado, while crossing the Quindio Mountains, on his march to form a junction with Tru-

jillo, near Manizáles, was intercepted by a conservative force about 2,000 strong. A sharp skirmish ensued, resulting in considerable loss to both sides, but in the rout of the conservatives. At latest accounts, Delgado was continuing his march toward Manizáles, where the next general battle is expected very soon.

The guerrilla forces of the insurgents at Guasca and Canóas are still harassing the plains of Bogotá and menacing this capital. Their strength is probably between 2,500 and 3,000 men. The national force stationed here is about 2,500 effective men, well armed and equipped.

At Naire, on the Magdalena River, the insurgents still maintain a considerable force. The steamers, however, succeed in making occasional trips between Honda and the coast, but always attended with more or less risk and delay from the guns of the rebels. Hence all communication between Bogotá and the coast is irregular and uncertain.

Some days since two Catholic priests, while attempting to reach the coast, were picked up by a detachment of government troops near Mompox. They had with them $60,000 in Colombian gold, and were, it seems, emissaries commissioned by the State of Antioquia to purchase arms in the United States for the use of the insurgents.

The available force of the national government now under arms in the States of Cauca, Tolima, and Cundinamarca is estimated at 20,000 men; that of the insurgents is, perhaps, not much less, but not so well armed.

Both parties seem alike determined to push matters to the last extremity. Both are levying contributions and forced loans upon the adherents of the other. Even families are being turned out of their houses, and their dwellings converted into barracks and hospitals. To such a pitch has the spirit of retaliation arrived, that the property and persons of the adherents of neither party within the lines of the other are respected.

I apprehend, however, that notwithstanding its financial and other embarrassments, the government will ultimately triumph, in which case the church property will probably be appropriated to pay the greater part of the war debt.

I have, &c.,

WILLIAM L. SCRUGGS.

DENMARK.

No. 59.

Mr. Cramer to Mr. Fish.

No. 346.] LEGATION OF THE UNITED STATES,
Copenhagen, October 13, 1875. (Received November 1.)

* * * * * * *

SIR: The *social condition* of the Danish people is, on the whole, a good one. This is due, partly to the excellent public schools, partly to the well-developed sentiment of patriotism, and partly to the increasing prosperity of the middle classes. The public schools, the press, and the pulpit are the principal means for spreading universal intelligence, as well as for developing and cultivating the sentiment of patriotism. Few nations love their country more than the Danes do

theirs. Hence, the internationals and revolutionary propagandists have as yet been unable to gain a permanent foothold in this country, although they made desperate attempts in that direction. They always stranded at the good common sense, intelligence, and contentment of the people, as well as at the prompt action and firmness of the government. Very little disregard for the laws and "the powers that be" is met with. Obedience to the laws and social order are leading features in the national character of the Danes.

Another reason for the existence of a good social condition may be found in the fact that during the past decade numerous philanthropic institutions and benevolent associations have been organized, the object of which is to furnish the laboring classes with cheap and comfortable dwellings, as well as with pecuniary and other assistance in sickness and old age. There are few, if any, countries in Europe that, in proportion to the number of inhabitants, have so many such institutions and associations as Denmark. While those who, at some time or other, desire to derive some benefit from one or more of them are obliged to make small contributions to them, either weekly or monthly, or annually, yet well-to-do and wealthy persons make often large donations to them, thus placing them on a permanent basis. The royal family set a good example in this respect.

Seeing that thus provisions are made for their assistance in sickness and old age, the laboring classes feel more at liberty to indulge in recreations and amusements, which—the love of amusements being a national characteristic—produces cheerfulness and contentment among them.

As has already been stated, the *public schools* have contributed largely toward bringing about this happy result. They enjoy a high degree of efficiency and perfection. There is an exceedingly small percentage of the population unable to read and write, consequently the level of popular intelligence is comparatively high.

The laws and ordinances governing the public schools are those of July 29, 1814; March 20, 1844; May 2, 1855; March 8, 1856; and December 29, 1857, of which the following is a brief summary:

(1.) *Education is compulsory.* Attendance upon school on the part of the children is absolutely obligatory. Parents and guardians are compelled to send their children and wards to school, whether public or private; that is, they are to see that the latter receive the same quantity and quality of instruction prescribed in the public schools.

The children are required to attend school from the seventh to the fifteenth year; when, after having passed the prescribed examination, they are *confirmed.*

Whosoever does not comply with these requirements is fined, and, in special cases, the children may be taken from the parents or guardians and intrusted to appointed persons, who will see that they receive the equired instruction.

(2.) The public schools are divided into two classes, viz, *primary* or elementary, and *secondary* or intermediate. In the schools of Copenhagen no class is allowed to have more than from 30 to 40 children. The number of schools in country districts is dependent upon the following conditions:

No pupil is to be obliged to go to school at a greater distance than one-fourth Danish mile, (1 English mile.)

2. No teacher is to have more than 100 pupils. In thinly-populated districts the first rule may be occasionally deviated from; but the second rule is to be *strictly* observed; so that, whenever there are more than

100 pupils, either a second teacher must be employed or a new school established.

3. Tuition in the public schools is free.

4. The school-rooms must be at least 12 feet high and of proportionate length and width, and well ventilated.

5. The minimum time of giving instruction is 246 days per annum, and 6 hours per day for each teacher, and 3 hours per day for each pupil's recitation.

6. In the primary schools, spelling, reading, writing, and arithmetic, and religion constitute the prescribed branches of study; and instruction, in some instances, instruction in music, geography, history, and gymnastics is also given. In the secondary or intermediate schools, besides the above branches, grammar, physics, mathematics, and two modern languages are taught.

7. Those primary schools that have but one teacher are divided into two classes, the first of which contains the pupils under ten years of age, and the second those over ten. Primary schools having two teachers are generally divided into three and four classes.

8. The text-books to be used must first be approved by the bishop and clergy of the district. The consequence is that the text-books in use throughout Denmark are of a superior kind.

9. The teachers employed in the public schools are generally educated in the teachers' seminaries, of which there are four in Denmark. Those who have not been educated in one of these seminaries are required to pass a prescribed examination. Females desiring to be employed in the secondary schools for teaching girls are required to pass an examination in the studies they propose to give instruction in. Those who desire to enter one of the above-named seminaries for the purpose of preparing themselves for the profession of teaching must be seventeen years of age. The course of study is calculated for three years, and no one is allowed to pass his final examination before he has reached his twentieth year. Female teachers must be twenty-four years of age before they can be employed.

10. In city schools, the King, through the minister of public instruction, appoints the head-masters, or superintendents, and they can be dismissed only by him. All other teachers are appointed by the local school-boards, consisting of the bishop and clergy of the diocese and the bailiff of the (governmental) district. To these boards the teachers are primarily responsible for good behavior and efficiency. But these boards are in turn subordinated to a special board of school-inspectors, appointed by the minister of public instruction, to whom they make their annual report.

11. The salaries of teachers in the schools of Copenhagen range from 1,200 crowns ($320 gold) to 2,200 crowns, (about $600 gold.) In the country they range from 800 crowns ($215 gold) to 1,400 crowns, ($375 gold;) but the latter are, in part at least, paid in "natural allowances," such as dwelling, fuel, a piece of ground several acres large. As the price of grain is the basis of calculation as regards these salaries, it follows that they fluctuate every year with the fluctuations of the grain prices. For every five years of service the teachers are entitled to a small increase of their salary, ranging from 50 to 100 crowns per annum. With the special permission of the school-board, teachers may be placed on the pension-list after ten years of faithful service. After twenty years of service, teachers may retire on a pension of one-half of their salaries, and after twenty-nine years of service, on a pension of two-thirds of their salaries.

The widows and orphans of deceased teachers are entitled to a pension amounting to about one-eighth of the salaries of their husbands or fathers at the time of their death. Female teachers are, as a rule, paid less than male teachers; but they are also entitled to pensions at the expiration of a certain number of years of service.

12. The expenses connected with the support of the primary schools, salaries of teachers, &c., are paid by the cities, towns, or districts in which they are located, but the additions to the salaries and the pensions are paid from a special school-fund, of which each governmental district possesses one. The secondary or intermediate schools receive a subsidy from the state. The special school-funds are raised partly by local taxation and partly by subsidies from the state.

Besides the public schools, there are a comparatively large number of private or select schools, which are attended by the children of the wealthier classes. But, no matter in what schools children may be educated, they are required to pass annually, before a school board, an examination in the studies prescribed for the public schools for the year preceding the examination.

Besides the four seminaries for the education of teachers, there are in Denmark about *fifteen* so-called *learned schools* or *academies*, thoroughly organized, with from ten to twenty professors and teachers each. There is also a *veterinary college* and *agricultural high school*, with about twenty-five professors and teachers.

Besides a *military* academy and a *naval* academy, there are quite a number of *navigation-schools* in different cities of Denmark. Before men can become pilots in Danish waters, or mates and captains of sailing or steam vessels, they are required to pass an examination in the course of study prescribed for these navigation-schools. Hence it is that the Danes have the reputation of being good seamen.

Last, but by no means the least, there is the *University of Copenhagen*. It was established by King Christian I, in 1478. It has four faculties, viz:

1. The theological faculty, with 5 professors and 2 tutors.
2. The law faculty, with 7 professors.
3. The medical faculty, with 17 professors and 2 tutors.
4. The philosophical faculty, with, in philosophy and philology, 19 professors and 1 tutor; in mathematics and natural science, 11 professors and 1 tutor; in the polytechnic department, 12 professors.

Total number of professors 71, and 6 tutors.

In connection with the university there are several institutes and museums, viz:

* * * * * * *

The university library contains 260,000 volumes and 4,000 manuscripts. Connected with it, though kept in a separate building, is the so-called "Classenske Library," containing about 35,000 volumes, mostly on mathematics, physics, natural history, technicology, travels, &c. It was some years ago bequeathed to the university by a Mr. J. Classen.

* * * * * * *

In short, Denmark has made wonderful progress in science, art, literature, civilization, thrift, and refinement. These are the elements of national greatness and independence.

I am, &c.,

M. J. CRAMER.

ECUADOR.

No. 60.

Mr. Wullweber to Mr. Fish.

No. 3.] LEGATION OF THE UNITED STATES,
Quito, Ecuador, November 17, 1875. (Received December 13.)

SIR: I have the honor to inform you that the election for President of the republic of Ecuador took place during the week commencing on the 17th ultimo, and that Doctor (the title of attorneys in this country) Antonio Borrero, of Cuenca, Ecuador, was elected President nearly unanimously.

I have not seen as yet the official report of the returns, but am advised that Dr. Borrero received 38,720 votes. His competitors were General Julio Saenz, who received about 4,000 votes; Dr. Antonio Flores, who received about 2,800 votes; and Dr. Louis Antonio Salazar, who received only about 13 votes.

On the 2d day of October last the old ministry resigned, and the resignation was accepted by Don José Javrier Eguigurin, the President *pro tempore*, who again, on his part, handed in his resignation to Congress on the 6th ultimo, but Congress did not accept the same, and thus he continues to perform the functions of chief magistrate of the republic.

The changes herein reported are said to have been accompanied with a good deal of agitation and excitement, but did not cause any bloodshed. The new President will probably be inaugurated in a few weeks, Congress being assembled in special session and awaiting his arrival.

With great respect, &c.,

CHRISTIAN WULLWEBER.

No. 61.

Mr. Wullweber to Mr. Fish.

No. 33.] LEGATION OF THE UNITED STATES,
Quito, Ecuador, April 9, 1876. (Received May 13.)

SIR: I have the honor to transmit (inclosure No. 1) an extract from yesterday's *El Nacional*, the official paper of the Ecuadorian government, accompanied by a translation thereof, as (inclosure No. 2) containing a proclamation of President Borrero, in which he refuses to convoke a constitutional convention. This denial of immediate reforms advocated by citizens of Ecuador along the coast, as reported in my dispatch No. 27, is believed by some to create a revolutionary movement, while the majority of the people, at least at the capital, remain inapprehensive, as heretofore, and determined to support the government.

I have, &c.,

CHRISTIAN WULLWEBER.

[Inclosure.—Translation.]

Antonio Borrero, constitutional President of the republic, to the Ecuadorians.

FELLOW-CITIZENS: Four months ago I took charge of the power which you saw fit to confer upon me.

Thirty-nine thousand votes, voluntarily and spontaneously cast, drew me away from the retirement of my home in order to place into my hands the reins of government.

If I had obeyed the impulses of my heart simply, I should have declined to accept the office which you have imposed upon me, for I have never, at any time, aspired to the supreme magistracy; but, as a citizen and Ecuadorian, I had to follow the call of the country before listening to the voice of my private conveniences. It is true, I knew myself without strength and intelligence to rule with success; but I knew at the same time that I would find that strength and intelligence in the distinguished citizens of the republic. I called, therefore, to the wheel of government illustrious men who honor our country, without paying attention to their political color, because I did not come to rule with hatred and vengeance, but with self-denial and patriotism. This conduct, worthy of praise in every Christian and civilized nation, has received in ours a severe criticism on the part of the press of a certain political color, a censure very natural in a country where toleration of different opinions and a government of the people and for the people have been entirely unknown.

When taking possession of the office I swore before God and that body which represents the nation "to protect and see protected the constitution" which rules us, because you had elected me President by command of that constitution, and because, without confirming the same with my oath, I should not have been able to exercise the authority with which I found myself invested.

The constitution, therefore, is the only title which legalizes my power; and the moment I should break the same by calling a convention or a constitutional congress, as has been solicited, against the will of the entire nation, by at most a few thousands of Ecuadorians, I would convert my constitutional and legitimate authority into a power purely discretionary and arbitrary. The bond of union between the governor and the governed once broken, neither the former has any right to rule, nor the latter any obligation to obey. The constitution of the republic once violated by myself, I could not continue to rule, nor would you be under any obligation to respect my authority, for I would have deprived myself of the same by assuming the dictature.

When I delivered my inaugural address, I proclaimed to you that the constitution ought to be reformed, and I told you that the Congress, before whose president I took the constitutional oath, had already initiated important reforms. These reforms will be, within one year and a few months, an integral part of the constitution; and in three years and a few months from now will the constitution be changed and reformed to the extent that the political welfare, the principles of constitutional sciences, and the peculiar necessities of our country may advise us to change and reform the same. Three years and a few months, then, is the shortest time which Ecuador needs to reform her institutions, to-day indeed defective and imperfect, but not to such an extent as to be incompatible with a republican government, since the magistrate who is bound to see them respected is animated by patriotism, disinterestedness, loyalty, and good faith.

So weighty are the motives which force me to deny, in conformity to the national vote and the advice of the council of state, the convocation of a convention; thus refusing, upon mature and considerate reflection, the request which some citizens have directed to me on the subject. If patriotism and conscience could force me to the indispensable sacrifice of my repose, in order to correspond with the confidence of the people in accepting the supreme power, conscience and patriotism tell me that nothing can nor ought to force me to the unjustifiable sacrifice of the duties which you have imposed upon me.

Fellow-patriots: The four months of my administration, under the rule of the constitution as it is, demonstrate practically, by deeds which speak very loud, much louder, without doubt, than words of visionary politicians, that the public liberties and individual guarantees are not incompatible with our mode and manner of governing. The liberty of suffrage and of the press, the right of petitioning and associating, the inviolability of human life, of property and domicile, the security of the individual, in a word, all just and legitimate liberties and rights, have been scrupulously respected, to the extreme that the government has been accused of lack of strength and energy when alone it was toleration of different opinions and the highest regard for individual guarantees, [that influenced the government.] A government which has a legitimate and popular origin, and consequently the consciousness of its right, does not need, like tyrannical and oppressive governments, the state of siege and drumhead court-martials as the ordinary means of protecting themselves against the conflicts which from time to time might threaten them.

In some foreign periodical it has been said by somebody, who without doubt did not know what he said, that I did not convoke the convention because an avaricious desire of power would not permit me to do so; and that power is to me such a burden (I say it with the characteristic sincerity of my nature) that I would cast off the same even to-day, heartily glad, and retire to the tranquil home of private life, if you yourselves had not imposed upon me the sacred duty of preserving the constitutional order and the peace of the republic, which, as a distinguished American has well said, "are the honor and the highest good of the nation." The ardent desire of duty, therefore, is the only cause which restrains me from committing perjury in an awful

and scandalous manner and from making myself guilty of an enormous crime against God and society by exposing, perchance, the fate of our beloved country to the furies of a turbulent demagogism.

Ecuadorians, one and all, continue, as you have done until now, to surround and support the government, the only legitimate government which we have had, as it is the first which you have elected with full liberty during the forty-six years of our existence as an independent and sovereign nation. This government, I assure you, will not be that of a dictature, which humiliates and debases nations, but that of justice and liberty, which elevate and exalt the same.

Quito, April 5, 1876.

ANTONIO BORRERO.

The minister of the interior and foreign affairs—

MANUEL GOMEZ DE LA TORRE.

The minister of the treasury—

JOSÉ RAFAEL ARIZAGA.

The minister of war and the navy—

JULIO SÁENZ.

No. 62.

Mr. Wullweber to Mr. Fish.

No. 50.] LEGATION OF THE UNITED STATES,
Quito, Ecuador, Sept. 13, 1876. (Received Oct. 14.)

SIR: I hasten to inform the Department of State that news has just reached us from Guayaquil of the outbreak in that city and vicinity of a revolution of formidable dimensions. According to the reports received here at the capital, General Ignacio Veintemilla was, on the 8th instant, proclaimed at Guayaquil supreme chief of the republic and captain-general of the army. This same General Veintemilla was, a few months ago, appointed by the Ecuadorian government commander of the military forces of the Guayaquil district, and sent down to Guayaquil for the very purpose of maintaining the order and peace in that disaffected part of the country. The government placed at his disposal all the available forces not absolutely needed at the capital, and seems to have had implicit confidence in his loyalty. It is stated that the troops under General Veintemilla, as well as the populace along the coast are in accord and sympathy with this revolutionary movement, and the condition of the government may be considered as perilous and critical. Quito presents a picture of excitement and consternation; the President just now issued his proclamation calling upon the soldiers and citizens to come forth in defense of the imperiled country. The roads on the plains leading from Guayaquil to the capital are in the hands of the insurgents. No official reports have as yet reached me from our vice-consul at Guayaquil; mail communication is interrupted; and, in transmitting this dispatch, I avail myself of the kindness of the Colombian minister resident, who, being obliged to send an express-messenger to Guayaquil, offered me his services.

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With profound respect, &c.,

CHRISTIAN WULLWEBER.

FRANCE.

No. 63.

Mr. Washburne to Mr. Fish.

No. 1200.] LEGATION OF THE UNITED STATES,
Paris, August 17, 1875. (Received September 2.)

SIR: The International Geographical Congress closed its labors on the 11th instant. Our Government having declined to take part officially in this congress, the New York Geographical Society delegated Dr. William E. Johnston, a distinguished American physician in Paris, as its commissioner to the congress.

The different juries chosen to decide upon the merits of the various objects presented at the exhibition have made their reports, and I am informed by Dr. Johnston that, if few objects were exhibited in the American section, they were all found of such value as to merit rewards.

In the appreciations of the different juries the United States thus secured as high a position of merit in proportion to the number of objects exhibited as was accorded to any other nation.

I have, &c.,

E. B. WASHBURNE.

No. 64.

Mr. Hitt to Mr. Fish.

No. 1271.] LEGATION OF THE UNITED STATES,
Paris, January 1, 1876. (Received January 21.)

SIR: To-day the President received the diplomatic corps at the Palais de l'Elysée. This formality, which in the days of the Emperor's personal government was watched with the deepest solicitude for the intimations of the executive will, has, by the events of the last few years, lost its interest, and there was nothing of special significance to day. Perhaps Lord Lyons was greeted with a little more than usual attention by some members of the diplomatic corps, in consequence of the recent acquisition by England of the Suez Canal shares. Generally, the occasion was one of mere customary new-year greetings.

At six o'clock last evening the National Assembly closed its session with the year. Such an adjournment in the days of the empire was scarce more than a formality, and excited little interest. Now it is of the first importance. Political power has been transferred from the executive to the legislature. The people have watched earnestly all the acts of the Assembly until it expired last evening. The campaign will now open for the election of the members of the new Assembly; and for the next seven weeks there will be a general political excitement.

The Assembly had lived its full measure of days, and reached a great old age for a parliamentary body—five years. It met on the 8th of February, 1871, and adjourned December 31, 1875. Its principal work has been to frame a constitution, the most important parts of which were promulgated on the 25th of last February. This constitution is not, like that of the United States, a single document, giving a clear outline of the frame of government; it is found in a body of constitu-

tional laws containing provisions of an organic nature, and then long details of legislation.

The last few weeks have been devoted to measures having in view the approaching elections. The press law has been modified so as to diminish its severity; the state of siege has been abolished in all the departments except four, where are situated Paris, Lyons, Marseilles, and Versailles.

The provisions in regard to the elections will be made clearer by a word in reference to the new frame of government. According to the constitution of the 25th of February, France is to be governed by a National Assembly, composed of a Senate of 300 members, and a Chamber of Deputies of 532. Of the senators, 75 hold their offices for life, and have already been chosen by this Assembly; but whenever vacancies occur in their number hereafter the Senate will itself fill them. The remaining 225 senators, who will hold their seats for nine years, are to be elected by a body partly composed of delegates, who are themselves to be chosen specially for this duty by the municipal councils of the departments. The theory is analogous to that of our electoral colleges for the choice of the President of the United States. The election of these delegates by the councils is fixed for the 16th of this month; then the delegates will choose the 225 senators on the 30th.

The Chamber of Deputies will contain 528 members for France and 4 for the colonies. They are to be elected in "arrondissements," similar to our congressional districts, by universal suffrage, (except the army and navy in active service,) and to hold office for four years. The general election of deputies will take place on the 20th of February, and the new Assembly will meet at Versailles on the 8th of March. The Senate and Chamber of Deputies, when sitting in joint convention, will have the power to adopt amendments to the constitution which have been previously adopted by the two houses separately, and these amendments become part of the constitution without being submitted to the people. The action of the Assembly is final. It can change the government to a monarchy. Even the restrictions thrown around the amending power, slight as they are, can be changed by the next Assembly as easily as they have been established by the last one.

The enormous powers vested in the Assembly become still more striking by glancing at the functions of the executive. The President, whose term is for seven years, is elected by the Assembly. He may dissolve the Chamber of Deputies, but only with the consent of the Senate. He has the nominal power of making appointments, but his cabinet, which really governs, instead of being only responsible to him, is, like the English ministry, responsible to the Assembly, in which all the ministers have the right to speak and are liable to be questioned. Thus the ministry is scarce more than the instrument of the will of the Assembly. By an express provision of the constitutional laws, the President is himself made responsible to the Assembly. The origin of this unique republican system is remarkable. It is the result, not of design, but of events. The members of the Assembly were elected in a sudden manner, at a time when the nation was very near despair. The only question then considered was how to make peace. A large part of the members were legitimists. A decided majority were monarchists of one sort or another. The empire had just perished; it was odious, and there were few Bonapartists elected. One of its first acts was to solemnly declare the forfeiture and fall of the empire. When peace had been made, the ransom paid, and the territory liberated from the German army, the

Assembly, which had gradually assumed all the powers of the government, took upon itself the functions of a constitutional convention, but its progress was slow.

The majority was monarchical, but so divided between dynasties that it was impossible to found any monarchy. The republicans, though a minority, were strong and embraced the ablest men in the body. They, too, were broken into several groups. Most of the members were men who were unknown to the world when elected, and learned to legislate by experience. Some of them felt that with the adjournment of the Assembly they would drop back into obscurity. These causes have delayed the completion of the constitution for years, and prolonged the provisional state of the government which each hoped to ultimately control. Out of these discordant elements was framed, or rather, grew, the constitution of the French republic of to-day. If the institutions thus founded prove lasting, this monarchical Assembly, which has established a republic, will take a high place in history, if judged by the results of its work; it will receive a very different regard, if judged by its intentions. Circumstances have been wiser and stronger than these politicians. The part of the machinery first to be set up was the Senate, the conservative balance-wheel; but of the 75 life-senators which the Assembly reserved to itself to elect, the republicans, by a secret combination with a handful of dissatisfied royalists, carried nearly the whole number. Thus at the first skirmish the monarchists have lost the key of the position. The elections in a few days will test still further the work of the Assembly.

I have, &c.,

R. R. HITT.

No. 64.

Mr. Washburne to Mr. Fish.

No. 1293.] LEGATION OF THE UNITED STATES,
Paris, February 25, 1876. (Received March 13.)

SIR: You will have had very full particulars by telegraph of the elections for the five hundred and thirty-two members of the new Assembly which took place on Sunday last. The event of those elections I deem one of the most important in French history, and it is calculated to have an immense influence in the destinies of the country. The result, so overwhelmingly republican, has created a most profound impression not only in France, but over all Europe. Nothing else has been talked of here since the result became known in all circles. I may, at a further time, give you my own appreciations of the elections for both the Senate and Assembly. I limit myself, however, in this dispatch, to the observation that I consider the result most favorable for the French republic, and the peace, happiness, and prosperity of France.

The reactionary parties which have been so overwhelmingly defeated have betaken themselves to the grossest and wildest exaggerations of the character of the newly-elected deputies, stigmatizing the great majority as extreme radicals, whose election is a menace to peace and order.

* * * * * * *

So far from this being the case, the great majority of the republicans elected, so far as I can judge, are among the best men in France, men of

intelligence, patriotism, and wealth, who have every interest in a good, tranquil, and stable government.

* * * * * * *

In one hundred and seven districts there was no choice, and a second election will be held on Sunday, the 5th of next month. At that election a plurality-vote elects.

From the best information I can get from the most reliable sources, I find the result to be as follows:

Whole number of deputies, 532.

Radicals	20
Original republicans	201
Conservative men rallied to the republic	100
Legitimists and monarchists	40
Bonapartists	60
Vacancies	107
Colonies to be heard from	4
Total	532

One of the first effects of the elections was the prompt resignation of Mr. Buffet, minister of the interior, and vice-president of the council. He has been replaced by Mr. Dufaure, *ad interim.* * * * The Viscount de Meaux, minister of agriculture and commerce, who is a legitimist, has also resigned, but the President has requested him to guard his portfolio till the new Assembly meets on the 8th proximo. The Duke Decazes failed of an election, but his success is assured at the "second turn of the ballot" on the 5th of next March.

It seems to be quite certain, therefore, that he will remain in the ministry under the new order of things.

I have, &c.,

E. B. WASHBURNE.

No. 65.

Mr. Washburne to Mr. Fish.

No. 1296.] LEGATION OF THE UNITED STATES,
Paris, March 9, 1876. (Received March 24.)

SIR: The "*second tour de scrutin*" to fill the vacancies in the Chamber of Deputies took place on Sunday last, with the following result: Republicans, 60; constitutionalists, 8; conservatives, 6; monarchists, 8; Bonapartists, 25: total, 107. This classification differs somewhat from others which have been made; but I think it is substantially correct. The Assembly is now full, with the exception of four members, to be elected by the colonies, who will all be republicans except one.

Yesterday was the day for the opening of the two legislative bodies, the Chamber of Deputies and the Senate. Though considered an occasion of a good deal of importance, there seemed to be much less interest than I had expected. Desirous of obtaining a *coup d'œil* of these two new bodies, I went to Versailles, first to the opening of the Chamber of Deputies and then to the Senate. Everything proceeded according to the rules established in such cases, and there was no excitement of any kind in either branch attendant upon the provisional organization of the two bodies.

The Chamber was called to order in conformity with the precedent which prevails in all similar cases in France, by the *doyen d'âge*, who was, in this case, Dr. Raspail, a man 82 years of age, who played a prominent part in the revolution of 1848, and has been widely known as an

extreme radical for more than a quarter of a century. He was in prison for a political offence at the time of the fall of the empire.

It was thought that his appearance in the *fauteuil* on this occasion would create a certain excitement, and that he might make a foolish and irritating speech. Whoever expected anything of the kind must have been grievously disappointed, for his appearance in the chair was very creditable for an old man, and his speech was short, sensible, and in good taste, containing nothing to wound the susceptibilities of any one present. When the provisional president had been elected, and he proposed to yield the chair to him, the Chamber insisted that he should continue to preside until the end of the sitting. The Chamber of Deputies met in the new building constructed recently for the purpose. It is in a narrow street, and has no pretensions to architectural beauty. The hall is pleasant and well arranged. There is much more room for spectators in the galleries than there was in the Palais de Bourbon in his city, or in the old theater at Versailles, where the last Assembly sat. The diplomatic tribune is much larger than in either of the old halls.

The Senate met in the hall which was vacated by the last Assembly, which, as you are aware, was the *Salle du Spectacle* of the Palace of Versailles in the age of Louis XIV. This body was temporarily organized in the same manner as the Chamber of Deputies, and after a very short session adjourned. It is well understood that the Duc d'Audiffret Pasquier will be elected permanent president of the Senate, and that Mr. Jules Grêvy will be the permanent president of the Chamber of Deputies. Mr. Grêvy, as you will recollect, was the president of the old Chamber until he felt himself compelled to resign by what he conceived to be the indignities put upon him by the majority. After the organization of the Assemblies a ceremony which is very much at variance with our political usages, and which, I think, has no parallel in any other country, took place in the *salon d'Hercule* of the Palace of Versailles. It is what the French call *la Transmission des pouvoirs.*

There met the president of the late National Assembly, the Duke d'Audiffret Pasquier, followed by the members of the *commission de permanence* and the whole cabinet. At three o'clock all the officers of the two newly elected bodies, headed on one side by old Raspail, on the other by Mr. Gaulthier de Rumilly, were introduced. The Duke d'Audiffret Pasquier then rose and addressed those gentlemen for the purpose of handing over to them the powers vested in the old Assembly. "I have the honor," said he, "to transmit to you in the name of the National Assembly the sovereign power with which it was clothed by the nation."

After a reply from the president *pro tem.* of the Senate, Mr. Dufaure, the head of the cabinet rose at his turn and said:

"My colleagues and myself have been designated by the President of the republic to receive from your hands the executive power, with all its duties and prerogatives as they are determined by the constitution."

This custom, which has long prevailed in legislative bodies in France, and which seems curious and unnecessary to a republican trained in the United States, is manifestly a vestige in a modified form of the ancient ceremonies at the death of the king, when, at the moment he breathed his last, the doors of the chamber of death were thrown wide open, the highest ecclesiastics, nobles, and functionaries of state appeared, and with the announcement, "*le roi est mort*," proclaimed "*vive le roi.*"

I have, &c.,

E. B. WASHBURNE.

No. 66.

Mr. Washburne to Mr. Fish.

No. 1307.] LEGATION OF THE UNITED STATES,
Paris, March 27, 1876. (Received April 13.)

SIR: The rapid and growing depreciation of silver, which had for some time attracted the attention of the principal economists and financial men of Europe, is now becoming a matter of serious uneasiness to the governments that have the largest proportion of silver currency in the world. I mean France, Germany, and England, the last named for her Indian Empire.

The question is of such vital importance, it threatens to assume such vast proportions, and is, in so many respects, connected with the measures at present under consideration in our country regarding the resumption of specie payments, that I have thought it would not be uninteresting to you to know how it is presented in Europe, and what solutions the most competent French economists propose for a crisis whose consequences might prove disastrous for the whole commercial world.

The European states may be divided into two classes with regard to metallic currency: those which have adopted gold alone for their monetary standard, and those which use both a gold and a silver standard. The first are England, Germany, the latter since the 1st of January only, and Holland. It may be noticed, however, that while England recognizes no other legal standard than gold, her immense Indian Empire has no other currency than silver. The second class comprises France, Italy, Belgium, Switzerland, and Greece. To these we should, temporarily at least, add Germany; for though the German Empire has begun to withdraw its various silver coins, and has decided by law that on and after the 1st of January of the present year the gold mark shall be the only legal tender, it has, nevertheless, authorized for an indeterminate lapse of time the circulation of thalers.

Russia and Austria, which are both doomed to paper currency for a long time to come, need not be taken into consideration.

The bi-metallic or double-standard system can evidently subsist but by the assumption of an unvariable ratio between the value of gold and that of silver. In France, that ratio was determined by a law of the year XI, (1803,) which is the basis of the French monetary system, and which establishes for the relative value of gold and silver the ratio of one to fifteen and a half. This means that to have in silver the equivalent of any given weight of gold, we must multiply that weight by fifteen and a half.

The French ratio was successively adopted by the six above-named states, and during a long time the value thus settled underwent very slight variations. When gold was discovered in California, it was believed in Europe that this metal would suffer a certain depreciation, and various measures were resorted to in order to avoid the impending danger. Holland even went so far as to declare that *gold* should no more be a legal tender, but after a short perturbation the relative value of the two metals was brought back to its former state, and the ratio of fifteen and a half to one remained unchanged.

It was not until 1867 that this ratio began to experience variations detrimental to silver and favorable to gold. Eighteen hundred and sixty-seven was the year of the Universal Exhibition at Paris. On that occasion an international monetary conference was held here, the great

object of which was the investigation of the means of establishing monetary unity. The conference, in which nearly all the civilized countries, the United States among others, were represented, and to which men eminently skilled in financial matters had been called, gave a large majority in favor of the adoption of gold as the sole monetary standard. From that moment the value of silver began to decline. At first the depreciation was very slow and hardly perceptible, but by degrees it went on accelerating. In 1872 it was as yet but 2 per cent.; in 1873 it had become 1 per cent. more. In the course of the latter year the French government, in hopes of preventing, or at least restraining, the further depreciation of silver, determined to restrict the coining of that metal. This measure, which was contrary to the spirit if not to the letter of the law of the year XI, for till then any denizen had a right to send to the mint for coining as much metal as he chose, produced an effect quite the reverse of what was expected; the value of silver continued declining, and in 1874 its depreciation with regard to gold was 4 per cent.

At that time other events took place which seem, also, to have essentially contributed to the depreciation of silver.

Germany, whose metallic currency had, up to 1870, been almost entirely limited to silver, finding herself, after the conclusion of peace, possessed of an immense capital, resolved to unify her monetary system and adopt gold as the sole standard. She therefore ordered that none of the foreign coins, of which a great number were in free circulation throughout the empire, should thereafter be a legal tender, called in the florins and other silver coins of Southern Germany and of the Hanseatic cities, decreed that, on and after the 1st of January, 1876, the sole legal tender should be the gold mark, and coined gold-pieces of ten and twenty marks, to the amount of 1,200,000,000. In order to complete this reformation, it would have been necessary to call in all the thalers then in circulation; but as their total amount is equal to 740,000,000 of francs, and as the sudden withdrawal of so great a mass of metal presents difficulties of all kinds, Germany has decided to accomplish it gradually, and has, therefore, retained the thalers as a legal tender, assimilating them, however, to gold-pieces of three marks, and adopting for their value with regard to gold the ratio of one to fifteen and a half, accepted by the bi-metallic states, so that every thaler, now worth three marks, weighs fifteen and a half times as much as the three-mark gold-piece.

Therefore, though adopting as a principle the monometallic system, and declaring the thaler to be a provisional currency, which is retained but not allowed to be increased, Germany belongs *de facto* to the class of bi-metallic states, since the thaler, or silver mark, and the gold mark are, in that country, exchangeable at par. The consequences of such a state of things were not slow to appear. As the value of silver abroad was everywhere declining, while it suffered no depreciation at home, the German bankers exported German gold to meet their payments in foreign countries, and kept the German silver for their liabilities at home, so that the government was obliged to buy and import its own gold, with which it paid for the silver called in, and then to sell that same silver at a loss.

Such being the situation, all the bi-metallic states had reason to fear that Germany might send to their mints the silver she withdrew from her own circulation, and which she could dispose of only at a heavy loss in London, the great mart for the precious metals of the world.

In fact, at that time, 1874, silver, which was then and still is a legal

tender in France, Belgium, Italy, and Switzerland, could be coined to any amount in those countries. There was no law to prevent a French, a Belgian, an Italian, or a Swiss citizen from carrying to the mint all the silver which he could obtain; the coining of it could in no case be denied him. It would, therefore, have been an easy matter for Germany to have her florins and thalers, which could not be advantageously disposed of in England or in the United States, converted into francs and lires, circulating at a par with gold. France hoped to avert this danger—if there were any danger in the case—by promoting the formation of a monetary league, the object of which was to restrict the liberty of coining. This is what is known as the *Latin Monetary Union.* It was constituted in 1874 by a convention signed at Paris. These countries bound themselves not to produce during the year 1874 more than 120,000,000 of francs of silver coinage. Such an agreement was in reality nothing else than a step toward the adoption of gold as the sole standard, since this measure of precaution was against silver alone, while leaving the coinage of gold completely free.

The results of this measure, however, did not correspond to what its authors expected. The value of silver still declined, and at the end of 1874 it was 5 per cent. below par. In 1875 a second conference of the Latin Union fixed the limit of the coinage of silver in the four states at 150,000,000 francs for that year. Nevertheless, the decline continued. It had reached 8 per cent. when the conference held its third meeting at the beginning of the present year. No other remedy was sought for than that which had been attempted so far, and the amount of silver coinage was still further reduced for 1876. France was allowed to make five-franc pieces only to the amount of 54,000,000 instead of 75,000,000, which had been authorized in 1875; Italy, 36,000,000 instead of 50,000,000; Belgium, 10,800,000 francs instead of 15,000,000; Switzerland, 7,200,000 francs instead of 10,000,000. Greece, which had recently joined the Union, was authorized to coin 15,600,000 francs, of which 8,400,000 francs were allowed in the place of old silver specie withdrawn.

This determination had scarcely been adopted when silver suffered a new decline, much more rapid this time than previously. In the space of two months it lost 3, even 4 per cent., so that the difference between the commercial and the legal value of the metal reached 12 and 13 per cent.

Such was the state of things when the new Chambers of France met. One of the first acts of the minister of finances was to present a bill empowering the government to restrict the coinage of silver in so far as it might be deemed necessary, or, in other words, not to avail itself to the full extent of the right granted to France by the monetary convention. It must be observed, in fact, that, while the convention established a maximum amount of coinage, it establishes no minimum, and that in 1874 and 1875 France coined the maximum allotted to her only because her laws did not allow her to do otherwise.

The object of the bill introduced by Mr. Leon Say is to alter this state of things; it was brought before the Senate on the 21st of this month, and gave rise to a long and interesting debate, in which Mr. de Parieu, a man eminent by his special knowledge of monetary matters, attacked the principle of the double standard vigorously, while Mr. Rouland, governor of the Bank of France, with marked ability, defended it. The bill will certainly pass, but the question now is whether the new law will produce the result expected from it. When France has completely stopped coining silver, will the depreciation of this metal be prevented thereby or even partially checked? It is, at least, doubtful.

On this highly important question two essentially distinct doctrines are entertained by the financial men and economists of Europe.

On one side stand the *monometallists* or champions of gold as the sole monetary standard; on the other, the *bi-metallists* or supporters of the old system of the double standard. Among the former are Messrs. Louis Bamberger, of Berlin; Max Wirth, of Vienna; Frère Orban, of Brussells; Feer Herzog, of Bern; and in France, Michel Chevalier, de Parieu, Victor Bonnet, Fredk. Passy, and Leroy Beaulieu. Their principal organs are, in London, the Economist; in Paris, the *Journal des Debats* and the *Economiste.*

On the other side are Messrs. Malon, minister of finances in Belgium; Laveley and Allard, of Brussells; Count Sclopis, of Turin; Leon Say, Magne, Wolowsky, André, Courcelle-Seneuil, and Henri Cernuschi, of France. The principal organs of this group are the *Siècle* and the *Republique Française.*

The theory of the monometallists may be summed up as follows: The first cause of the perturbation now prevailing in the monetary market is the superabundant production of silver. The mines of the new world, by pouring in upon us tons of this metal at the very time when the coinage of silver is restricted in almost every country, have produced such a difference between its value and that of gold that the balance is irretrievably destroyed. Every attempt, moreover, to maintain a constant ratio between the values of the two metals, both of which are subject to so many causes of variation, must always prove utterly useless. There exists but one remedy of real efficacy for the state of things created by the bi-metallic system. We must completely abandon that system and adopt gold as our sole monetary standard. On that condition only we shall be able to extricate ourselves from the dangers and difficulties of two metallic standards, legally exchangeable at par, though one of them is much more abundant than the other, and at the same time very bulky.

To these arguments, which the very able economist of the *Journal des Debats*, Mr. Leroy Beaulieu, advances with great force, and which Mr. de Pasieu presented in the Senate with all the authority of his long experience in financial matters, the bi-metallists oppose the following answer:

It is not the superabundant production of silver that has caused the perturbation; it is the limitation of the coinage of silver, a measure almost equivalent to total suppression, and the withdrawal of a great part of the silver coin already existing. Silver having lost the principal use to which it had always been applied, remains partly unemployed, and its depreciation increases as the demand for it goes on decreasing. The total adoption of the monometallic system, far from improving the present state of things, would do nothing but aggravate it, and infallibly result in a fearful financial catastrophe. To extricate ourselves from these difficulties, we should, on the contrary, hasten to retrace our steps and restore silver to its natural destination, by repealing all measures restricting its coinage. So soon as the great powers, resuming the bi-metallic system fully, shall decree that the coinage of gold and silver is unlimited, and that the two metals shall always be exchangeable at a rate established once for all—that of fifteen and a half to one, for instance, which is already generally accepted—there will be no more fluctuations in the relative value of gold and silver. As the two metals will constitute but one monetary mass, the greater or less quantity produced by the mines of either of them can then effect only the total mass. The purchasing power of this mass may increase or diminish, according to its greater or less abundance; but gold and silver,

whatever may be the quantity of either, will retain their relative value, since the one will always be the representative of the other.

This theory is certainly very attractive, and it has found in Mr. Henri Cernuschi a most ardent, indefatigable, and ever ready advocate. In the daily notes which he published in the *Siècle*, as well as in a multitude of pamphlets that are immediately translated into English and German, this learned and original economist defends the old principle of the double metallic standard by arguments which I cannot undertake to reproduce in this summary, but which certainly deserve the serious attention of all who take an interest in the question.

Among the considerations invoked by the bi-metallists two are certainly of special importance: The first is that every measure restricting the coinage of silver has immediately been followed by a decline of the metal. The fact is undeniable; but it may be a mere coincidence and not a consequence. It is possible that silver would have declined, even if its coinage had not been restricted. The bi-metallists here merely invert the argument of the monometallists, who say that the coinage was restricted for the very reason of the decline of silver. The second consideration bears on the enormous perturbations that would infallibly follow the general application of the monometallic system. In order to accomplish it, it would, in fact, be necessary to withdraw from circulation an enormous quantity of metal. What, for example, would be the amount of it for France, Germany, and British India alone?

In France, from 1795 to 1871 inclusive, silver has been coined to the value of 5,122,000,000 francs. Of these 236,000,000 have been withdrawn by government, and it is estimated that of the balance, only 1,200,000,000 to 1,500,000,000 in five-franc pieces still exist in France; of which 495,000,000 are at present in the vaults of the bank. Suppose 400,000,000 to be kept for small payments and as change, from 800,000,000 to 1,100,000,000 will be left for withdrawal.

In Germany, according to official statements published in Berlin, the total amount of the silver coined by the different German States before 1871, was £68,000,000 sterling. The silver still circulating amounts to 21,000,000; thus leaving a balance of £47,000,000. Suppose about 17,000,000 to have disappeared by exportation or melting, there would remain £30,000,000 sterling, or 750,000,000 francs, to be withdrawn.

For India we have no exact statistics. It is generally supposed that the circulation of that country amounts to £150,000,000, which is not at all extraordinary, when we consider that the population of India is seven times that of Great Britain, and that gold coin is unknown in the country. In India alone the sum to be withdrawn would, therefore, be as much as 1,500,000,000 or 2,000,000,000 of francs, so that the total amount to be called in would be at least 3,500,000,000 of francs; that is, $700,000,000 rendered useless as a currency, and of which the governments would have to dispose at an enormous discount. The bare mention of these figures is sufficient to give an idea of the crisis that would take place in the whole world as a consequence of so gigantic an operation as that recommended by the monometallists.

I shall not undertake to discuss, and still less to propose a solution for the great monetary problem now impending over the world. I hope, however, that this summary of the question, perhaps too long extended, may be of some utility in helping you to a clearer understanding of the manner in which it is viewed in France.

I have, &c.,

E. B. WASHBURNE.

No. 67.

Mr. Washburne to Mr. Fish.

No. 1319.] LEGATION OF THE UNITED STATES,
Paris, May 17, 1876. (Received May 31.)

SIR: I intended to address you a dispatch long before this time touching the question of the commercial treaties now under consideration in France, * * * I will no longer delay the transmission of the facts I have been able to gather on the subject.

As you have seen by the official report of the minister of agriculture and commerce to the President of the French Republic, which was forwarded to you by Consul-General Torbert, the preferences of the chambers of commerce of France and of the chambers of agriculture, arts, and manufactures can be summed up as follows:

1. Extension of the treaty or conventional tariff system in place of the general tariff system.
2. Substitution of specific for *ad valorem* duties.
3. Abolition in the treaties to be made of the "most favored nation" clause.

The minister in communicating these conclusions to the President, which he seemed to favor, stated that they would be submitted to the superior council of commerce, which, after this preliminary inquiry, would be in position to reach some well-founded conclusion in the matter.

Since that time this council has been convened and has devoted much time to the subject. Its labors are not completed, and its proceedings have not been made public; but from information I have gathered on the subject I think I can safely state that it will in general approve the suggestions made by the chambers of commerce, and very likely give them a still more liberal shape. I understand, for instance, that they will recommend the adoption of the actual conventional tariff, which is lower than the general tariff, as the basis for the future general one. There will be a strenuous effort made in the council in favor of a proposition that no higher duty shall be adopted for the future than 10 per cent., but this may not be successful.

As to the substitution of specific for *ad valorem* duties, it has met with no objection, and the council is now engaged in preparing the table of conversion, which seems to be a long and somewhat difficult task. I understand also that the most influential men of the council are in favor of suppressing altogether the existing list of articles prohibited.

* * * * * * *

I have, &c.

E. B. WASHBURNE.

No. 68.

Mr. Washburne to Mr. Fish.

No. 1327.] LEGATION OF THE UNITED STATES,
Paris, May 24, 1876. (Received June 7.)

SIR: Last Friday, Mr. Naquet, a radical deputy from the Bouches-du-Rhône, introduced in the assembly a resolution which created quite a sensation and has had a disastrous influence on certain stocks. Mr. Naquet's proposition, for which he claimed urgency, was to the effect

that a committee of five members of the chambers be appointed to inquire into the portfolio and the operations of the Crédit Foncier of France, in order to enable the government to take such measures as the financial interests of the country may necessitate.

Mr. Léon Say, the minister of finances, promptly answered that the operations of the Crédit Foncier had not escaped his attention, that they were found unobjectionable, and that the government understood its duty well, and would not fail to perform it when called upon. The urgency was therefore refused, but the motion had its effect, and the shares of the Crédit Foncier went down suddenly from 747.50 francs to 650 francs. The stocks of the other financial societies connected with this powerful establishment also suffered very severely, and the Egyptian securities fell from 220 francs to 196 francs.

To understand the meaning of this move, it must be stated that the Crédit Foncier, which is one of the largest financial establishments of France, placed in certain respects under the supervision of the government, is known to have speculated widely in Egyptian securities, which have lately passed through so many dangerous fluctuations, and is suspected of having done so to an extent and on terms not authorized by its charter.

How far these operations are illegal or imprudent is not known to the general public, but it is certain that the Crédit Foncier has invested an immense capital in the treasury-bonds of the Egyptian government, and that for more than six months this establishment, backed by men of high standing, has been struggling with the Khédive to bring him to terms.

As this question is now one of the principal topics of the day, and as the French government has taken a deep interest in the matter and has followed a course which brought it for a moment in direct competition with the British government, I have thought that a general summary of this Egyptian muddle would not be uninteresting to you. Perhaps the personal experience I have had in that country, where I had the opportunity of seeing for myself as much as is usually seen by casual visitors, will enable me to give this statement a little more accuracy.

Since the time of Mehemet Ali, whom the government of Louis Philippe supported against the Sultan, the influence of France has been predominant in Egypt. Though the French colony there is not as large as the Italian colony, its action is much more widely felt. Among the educated classes the French language is spoken, French literature, fashions, and arts are particularly sought for; their ideas, their mode of thinking, are popular; in short, it can be said that it is to France chiefly that modern Egypt owes its peculiar bent toward civilization.

For years French capital found a legitimate and profitable investment in that rich country. But when the present ruler, in his haste to introduce the improvements of modern times, found himself involved in schemes and enterprises which compelled him to call for repeated and heavy loans, the French capitalists imposed upon him ruinous terms. At first he submitted, but was finally loaded with such a burden of annual interest that it became imperatively necessary to remedy the situation by some radical measure. It was evident that, if the Egyptian government continued to borrow money at extortionate rates to pay the interest of its debt, it would soon be compelled to resort to some kind of repudiation. There was only one way to get out of this dangerous path; it was to find a financial combination by which the whole of the Egyptian debt would be consolidated, and which would inspire such con-

fidence in the European public that money would be furnished at once on reasonable terms.

The Viceroy first applied to French bankers, but found in them no disposition to second his intentions; he then applied to the British government, which responded promptly and liberally.

The first result of these overtures was the purchase by the Disraeli cabinet of all the shares the Khédive had in the Suez Canal. This transaction, which gave preponderance to British influence in the management of that great channel of communication between Europe and India, was carried out in such a secret and decisive manner on the part of the English cabinet that the French were taken by surprise and alarmed. They saw in a moment that the promised land in which their capital and activity had found, for so many years, a profitable field, was about to pass from their hands into those of the English, and when the mission of Mr. Cave was announced they determined to oppose strenuously the progress of British influence.

At that moment two groups of financiers, one English, the other French, were making propositions to the Khedive for the re-organization of his finances and for the consolidation of the Egyptian debt.

Each group was pressing its own plan with much vigor and ability, but, as the English capitalists seemed to have the preference, the French foreign office sent a special envoy to the assistance of the French bankers. This gentleman was Mr. Outrey, who had been formerly consul-general in Egypt, and who has since held important diplomatic posts in the east, and is an able and accomplished man. His ostensible mission was in relation to the carrying out of the judicial reforms, but he availed himself of the opportunities he had to advise the Viceroy strongly against the English propositions, to impart a decided political coloring to all the proceedings of the English in Egypt, and to press somewhat imperatively the French propositions.

How far Mr. Outrey pushed his remonstrances is not well known, but many rumors are afloat in relation to the difficulties he encountered with the Khédive, resulting, it is said, in complaints being made to the Duke Decazes as to the attitude he had assumed in Egypt.

In the mean time, however, the situation had undergone some changes. The English, who at first had taken so deep an interest in the financial affairs of Egypt, had become almost indifferent. That government withdrew quietly from the prominent position it had taken in the first instance, and the English capitalists held back. This change, which can be accounted for by disclosures subsequently made in the financial difficulties of Egypt, left the French nearly masters of the situation, and, at the beginning of this month, they succeeded in coming to a perfect understanding with the Khédive.

The result was the new organization of the Egyptian finances, of which you have probably received the substance by telegraph. This organization, created by two decrees of date the 2d and 7th of this month, consolidates the whole of the Egyptian debt into 7 per cent. bonds, redeemable in sixty-five years. The interest on these bonds, together with the sinking-fund, will amount to £6,370.000 sterling a year, payable in gold in Cairo, at Paris, and London, on the 15th of January and the 15th of July every year.

To secure the payment of this interest, the Khédive has created a *Caisse d'Amortissement*," or public-debt department, to be administered by foreign commissioners, designated by the European governments, but appointed by himself, and to which will be intrusted the

task of receiving special revenues exclusively devoted to the service of the debt.

I will not attempt here to discuss the soundness of this scheme or to point out where it may fail. When men of such experience in financial matters as Mr. Rivers Wilson, Mr. Scialoja, and Mr. Vilette, the English, Italian, and French commissioners to Cairo, have come to the conclusion that it is wisely planned if carried out properly and honestly, it will succeed, there is strong reason to believe that their judgment is well founded, and that the immense capital invested by Europe, particularly by France, in Egyptian securities will not finally turn out to be a dead loss. I have myself seen enough of Egypt to share those hopes. No country in the Old World offers more resources, and its ruler, whom I had the pleasure of meeting more than once, is a man whose clear mind is open to any practical suggestions which may further the development of his country.

Over thirty millions of dollars a year is, however, a very heavy load for a little state like Egypt, and public opinion seems inclined to the belief that it will not be able to carry it, for the Egyptian securities, very far from having gained anything after the new decrees were promulgated, still continued to go down.

By a strange and very unexpected misfortune, it thus turns out that the Crédit Foncier, the Crédit Agricole, the Anglo-Egyptian Bank, (a French establishment, notwithstanding its name,) and all the other French banking companies which have struggled so hard to impose their terms upon the Khédive, find themselves in a worse position after having carried their point than before.

It is hoped that this state of things will improve before long, and there are signs which confirm this hope. The Austrian and Italian governments, for instance, have nominated for appointment by the Khédive two prominent financiers to act as commissioners of the "*Caisse d'Amortissement*," and the French government has announced officially that it would soon do the same. Besides this, the official report of Mr. Scialoja has just been published, and it shows conclusively that the new measures adopted are essentially based on the suggestions made by Mr. Cave, which have met with the approval of all competent men in such matters.

Since this publication, the Egyptian securities have gone up a little, and so have the bonds of the Crédit Foncier; but the improvement is slight, and may not amount to anything substantial.

I have, &c.,

E. B. WASHBURNE.

No. 69.

Mr. Washburne to Mr. Fish.

No. 1329.] LEGATION OF THE UNITED STATES,
Paris, May 31, 1876. (Received June 15.)

SIR: I have written you from time to time in regard to the financial and industrial condition of France. To persons who keep themselves *au courant* with the progress which this country has made within the last few years, it is something extraordinary. While the production of the country has been immense, I think its prosperity must be attributed in a certain degree to its political condition. Since the suppression of

the commune in 1871 and the establishment of a republican government, France has enjoyed a repose such as was rarely seen before. It must be gratifying to persons in sympathy with the republic to reflect on the absolute tranquillity which has reigned since its inauguration. This quiet, scarcely disturbed for the last five years in any part of France by what would amount to an ordinary riot, has given the people a wonderful degree of confidence. With minds undistracted by political excitement and fear of internal commotion or foreign war, they have devoted themselves with unsurpassed activity to the further development of the great resources of the country. The recent statement of the condition of the Bank of France, showing in its vaults an amount of gold never before in the history of the world in the vaults of a similar institution, has led me to look a little into what the French people have accomplished since 1871.

After the commune, the Bank of France has a metallic stock of 557,000,000 francs, against a circulation in bank-notes of 2,242,000,000 francs. Since the termination of the war, France has paid to Germany the sum of 5,315,000,000 francs, of which sum 125,000,000 were paid in French bank-notes, 325,000,000 by the cession of the Eastern Railway, and the balance of nearly 4,900,000,000 was paid in gold and silver, or gold-drafts. To accomplish this purpose, France emitted a 5 per cent. loan to the amount of 6,920,000,000, which was put on the market at an average rate of 80 per cent. To-day, instead of 557,000,000 francs in the vaults of the bank which France had five years ago this month, the bank has 2,000,000,000 of metallic stock against a circulation of nearly 2,420,000,000 of notes. The French government owed the Bank of France, after the commune, 1,400,000,000 francs; to-day that sum is reduced to 500,000,000, which sum, being already inscribed in the budget, with 150,000,000 re-imbursement per annum, will be finally wiped out in 1880.

The French loans of nearly 7,000,000,000 francs are nearly all held by the French people, and by the quotations at the Bourse to-day stand at 105; which shows that the French people have gained 1,700,000,000 francs by the premium. This statement proves a more rapid recuperation of financial strength within the last five years than the world has ever witnessed.

The country has not only gained the 5,000,000,000 paid to Germany, but has more gold and silver than ever before. It holds its entire indebtedness at a greatly advanced rate. The reduction of the debt amounts to 1,000,000,000 francs, and it may be safely asserted that the country, since the downfall of the commune in May, 1871, has gained the enormous amount of 10,000,000,000 francs.

Those who are interested may contrast this state of things with that which existed during the last years of the empire, when the debt was constantly increased in time of peace.

The facts herein stated must have a certain interest for our political economists. This government has held to the basis of hard money, and the watch-word of the people has been "Economy and Industry."

I have, &c.,

E. B. WASHBURNE.

No. 70.

The central committee of the Universal Israelite Alliance to the President.

[Translation.]

UNIVERSAL ISRAELITE ALLIANCE, CENTRAL COMMITTEE,
37 *Trévise street, Paris, June* 3, 1876.

MR. PRESIDENT: The United States are about to celebrate the centennial anniversary of their independence by a grand and magnificent festival, which unites all nations in the same sentiment of universal sympathy.

In this celebration the Universal Israelite Alliance requests that it may take part. Established for the support and elevation of the Israelites in the countries where they are still subjected to a persecution which our age cannot comprehend, the alliance casts upon your country looks full of the liveliest gratitude.

It especially behooves us to recall with gladness that, first of all nations, yours has proclaimed, without distinction of sect, the grand principles of religious liberty. As long as a century ago, while the countries of Europe subjected the Israelites to "laws of exception," America invited them as brothers to the equality of political and civil rights.

Under the protection of such laws we see them in that generous country rapidly increasing, erecting large places of worship and grand institutions for the purposes of charity and instruction.

Besides those born under your skies, the Israelites of our countries who have crossed the ocean have received at your hands this emancipation and have had their share of this great blessing; and in how many instances, by their international policy, by their management and the choice of their diplomatic agents, has not the United States given to European Israelites the striking proof of their sympathy.

President of the Republic of the United States, permit the central committee of the Universal Israelite Alliance to express to you, to Congress, and to the whole American people their good wishes for the prosperity of the great Union which during the century of its existence has conquered for itself so noble a place in contemporaneous history.

Your flag carries the stars, which in our sacred literature are the symbols of divine benediction. With this auspicious emblem marching before you, may this divine benediction shed its rays over your beautiful Republic with increasing brilliancy during centuries of peace, useful works, and good-will among men and fraternity among nations.

For the members of the central committee of the Universal Israelite Alliance.

The President,

AD. CRÉMIEUX, *Senator.*

Signed by Mr. Isidor, grand rabbi of France, honorary president; M. Ad. Crémieux, senator, president; M. Derenbourg, member of the French Institute, vice-president; Mr. S. H. Goldschmidt, vice-president; Mr. N. Leven, counsellor of the court of appeals, secretary; and others.

No. 71.

Mr. Fish to Mr. Hitt.

No. 818.] DEPARTMENT OF STATE,
Washington, July 19, 1876.

SIR: A letter has been received by the President from the members of the central committee of the Universal Israelite Alliance of Paris, conveying the congratulations of that society on the occasion of the Centennial Celebration.

You are authorized to express to the committee, through Mr. Crémieux, its chairman, the sincere thanks of the President for the sentiments of sympathy and good-will which that communication contains, and to assure them that the President learns with much satisfaction that the progress and prosperity of the Israelites in the United States are recognized as a proof of the religious liberty and political equality which they have enjoyed; and he further cherishes the hope that during the second century of this country's history similar liberty and equality, with their attendant blessings, will be the portion of that sect throughout the world.

I am, &c.,

HAMILTON FISH.

No. 72.

Mr. Washburne to Mr. Fish.

No. 1346.] LEGATION OF THE UNITED STATES,
Paris, July 27, 1876. (Received August 9.)

SIR: I have had more than once occasion to call your attention to the surprising prosperity of this country and the frugal habits of the people. The new loan of the city of Paris, made last week, offers me another opportunity of referring to the subject.

The city of Paris asked for 120,000,000 francs, and she has been offered sixty-seven times that amount; that is to say, more than 8,000,000,000 francs, or $1,600,000,000.

Of course this does not represent the ready money tendered to the city, for many subscriptions were larger than they would have been if it had not been expected that the offers would overrun the amount of the loan, and that subscribers must, therefore, put their names down for large sums, in order that in the proportional allotment of subscriptions accepted they might get something; but as each subscription for a bond was to be guaranteed by a deposit of 50 francs, it follows that the cash already paid into the city treasury amounts in round figures to 864,000,000 francs, or $173,000,000.

The loan has been issued in bonds of 465 francs, paying 20 francs interest per annum and redeemable at 500 francs. The preceding loan of the city of Paris, issued at 25 francs below this one, was covered only forty-three times.

This extraordinary success is made more striking by the failure of the German loan of 100,000,000 marks, which has not yielded one-fourth of the amount called for. It shows the confidence of the French people in the new constitution, which seems to have definite established in France republican institutions, and their faith in the management of

the city affairs by the municipal council which has been lately very much abused by the reactionary parties.

The money raised by this loan is to be entirely devoted to the opening of new boulevards or avenues and other embellishments of this city, already so rich in magnificent thoroughfares and public monuments. In no respect is the wisdom of the people of Paris and of France more fully exemplified than in the constant effort to keep up the reputation of Paris as the most beautiful and agreeable city of the world, and to attract to it the people of all countries and climes who come to pour their gold into the already well-gorged coffers of the French people.

I have, &c.,

E. B. WASHBURNE.

No. 73.

Mr. Washburne to Mr. Fish.

No. 1348.] LEGATION OF THE UNITED STATES,
Paris, August 3, 1876. (Received August 16.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 818, informing me that the "Universal Israelite Alliance" had conveyed to the President its congratulations on the occasion of the Centennial Celebration, and requesting me to express to that association, through its chairman, Mr. Crémieux, the thanks of the President for the sentiments of sympathy contained in that communication.

In compliance with that request, I have addressed to Mr. Crémieux a letter in French, of which a copy is herewith inclosed.

I have, &c.,

E. B. WASHBURNE.

[Inclosure.—Translation.]

LEGATION OF THE UNITED STATES,
Paris, August 2, 1876.

SIR: The President of the United States has received the congratulatory letter addressed to him by the central committee of the Israelitic Alliance on the occasion of the Centennial of our independence, and I am instructed to thank you for the same.

The President has been touched by the sentiments expressed in that letter; he has been particularly gratified to learn that the progress made by the Israelites in the United States and the prosperity which they there enjoy are considered as an evidence of political liberty, of religious toleration, and of that real equality which is, among us, the privilege of every one.

The President entertains the hope that, during the second century of our history, the same liberty, the same toleration, the same equality, with all the beneficent consequences resulting therefrom, will become the lot of your coreligionists throughout the world.

In your capacity as chairman of the Israelitic committee, be pleased, sir, to be the interpreter of these sentiments to your colleagues, and to accept, together with the expression of my sympathy with that cause of liberty and toleration of which you are so zealous and illustrious an advocate, the assurance of the high esteem with which your character inspires me, as likewise my cordial salutations.

E. B. WASHBURNE,
Envoy Extraordinary and Minister Plenipotentiary of the United States in France.

Mr. ADOLPHE CRÉMIEUX,
Senator, Chairman of the Central Committee of the Israelitic Alliance.

No. 74.

Mr. Washburne to Mr. Fish.

No. 1356.] LEGATION OF THE UNITED STATES,
Paris, August 17, 1876. (Received August 30.)

SIR: On the 2d instant, a presidential decree, read from the tribunes of the senate and of the house, prorogued the first session of the French Parliament.

That decree was made in virtue of article 2nd of the law on the "Correspondence of the public powers," (one of the six laws making what is termed the constitution of 1875,) which not only gives to the President the right to adjourn both houses at any time he likes after they have sat five months, but seems to have lodged that right in him alone, for nothing in the text of the constitution indicates that Parliament can adjourn even on its own motion. At the request of a majority of all the members of the two assemblies, the President is compelled to call an extra session; he can do so of his own accord if he chooses; he can also adjourn Parliament during its normal session of five months, but not for more than one month, and not twice during the same session.

The Parliament which has just been prorogued is the first one organized under the constitution of 1875. I might add that it is the first one, since 1870, called in normal circumstances and under the authority of positive laws, sanctioned by universal suffrage.

The National Assembly which preceded it was not merely a legislative body, but a convention vested with all the constitutional rights of the people, and called into existence by a government which had sprung out of the necessities of the situation at the downfall of the empire.

When the new Parliament met on the 8th of March last, while the circumstances were not apparently very difficult or trying, yet they were of such a character as to call for moderation, political judgment, and firmness. The house particularly was in a rather difficult situation; it was elected in direct opposition to the former assembly, which had monarchical tendencies, and which had made the republic under the pressure of public opinion; its mission, therefore, was to carry out a policy quite different from the one secretly cherished by the majority of the previous assembly. It had to affirm itself as a true republican body and to show to the country that its institutions were republican in fact as well as in name. At the same time it had to avoid all cause of alarm for the great conservative mass of the nation, which still entertained fears of everything which was republican; it had to be liberal, wise, progressive, but not revolutionary. It has well fulfilled these conditions and has challenged the confidence and respect of the country. Without great pretension, but guided by a patriotic spirit, it has succeeded in the honorable task of reconciling republican institutions to the minds of a large class of citizens who distrusted them, and of inspiring the country as well as Europe with confidence in the stability of the new order of things. There has been some complaint in regard to the manner in which the chamber of deputies decided a large number of contested-election cases, and it is not unlikely that the decisions, in some instances, bore the stamp of partisan prejudice.

We know how such things go in our own country, both in the House of Representatives at Washington and in the State legislatures, and it is too often the case that parties are seated and unseated more in accordance with the prevailing majority than upon the strict rules of justice and right. When the excitement of the contest is over the whole matter

has but little interest, except to those who have been immediately concerned in the result. There have been but comparatively few disorderly manifestations in the chamber, but from time to time there were displayed some evidences of hostility to the senate, which might have led to unfortunate results had not wiser counsels prevailed in both bodies.

The senate, which had already shown some aggressive disposition toward the house by electing Mr. Buffet a life-senator and by rejecting the bill restoring to the state the exclusive right of conferring university-degrees, in the end yielded to a more conciliatory policy in electing Mr. Dufaure a life-senator, while the house submitted to the amendment the senate made to the provincial mayors bill. This last act, coupled with the election of Mr. Dufaure, sealed the reconciliation of the two houses and dissipated the apprehensions of further and more grave conflicts between them, which had caused many misgivings in the minds of serious men.

It is now quite evident that there is no serious cause of dissent between the senate and the house. They have a different political temper; one is more conservative than the other, more inclined to court prominent men of former parties, but they are not divided on fundamental questions of principle, and all sincere wishers of the happiness and prosperity of the French nation will cherish the ardent hope that both bodies will become firmly united in the task of laying deep and broad the foundation of republican institutions in France.

Very likely the President will call for a short extra session, for the budget is not yet voted; the next regular session will be opened on the second Tuesday of January, 1877.

The death of Casimir Périer, a life-senator, one of the most distinguished members of the Left Centre, and a man of a great name in France, has just been followed by that of M. Wolowski, an eminent political economist and a useful legislator. M. Wolowski was a moderate republican, but he interested himself far more in questions of finance and practical legislation than in struggles of party. He showed himself greatly interested in the Philadelphia Exhibition, and perhaps did more than any other man to interest the French government and the people in the subject.

President MacMahon has taken up his official residence at the Élysée. All the heads of the public department have returned to Paris.

I have, &c.,

E. B. WASHBURNE.

No. 75.

Mr. Washburne to Mr. Fish.

No. 1367.] LEGATION OF THE UNITED STATES,
Paris, September 7, 1876. (Received September 29.)

SIR: France being the most centralized country of Europe and the iron hand of the great convention of 1793, which by revolutionary process molded into one great nationality the provinces so utterly different in customs, habits, laws, and modes of thought of the old monarchy, the people soon acquired the habit of calling on the government for almost everything.

In the course of a conversation with the late Emperor Napoleon, while at Compiègne in the fall of 1869, he spoke of that disposition of the

French people to look too much to the government and to rely too little upon themselves.

He illustrated the idea by relating an incident that once happened to him while at some great fête. An old woman, after a great ado, managed to get near his person, and when asked by him what object she had in view in coming to him, answered in all seriousness that she had lost her umbrella, and that she thought it the duty of the government to give another in its place.

It is generally supposed that there is here only one budget, which provides for the machinery of the whole system of government. It is not so, however; precisely as with us, the French have three budgets: one voted by Parliament for the general expenses, one voted by the "conseils généraux," answering to our State legislatures, for the departmental expenses, and one voted by the communes, answering to our cities, counties, and towns. The custom here is to hold the meeting of the "conseils généraux" in the fall of the year for the purpose of voting their taxes and raising their revenues to meet them. This has just been done all over France, and the "conseils généraux" have everywhere displayed great wisdom, sagacity, and moderation. It is a French practice, still adhered to, to close those sessions by a banquet, which brings all the members together in a friendly intercourse and which does much to create and perpetuate a friendly feeling among them. The budget of the communes is voted at different times during the year, according to the demand and usage in each locality.

The general budget, a very heavy one, for it has reached now the enormous sum of 3,700,000,000 francs—$740,000,000—a sum that would stagger our economical Congress, is not yet voted. Grave apprehensions are entertained that when the extra session of Parliament will be called for that purpose, a serious conflict will take place between the senate and the house.

As a conflict of this nature has just occurred in our Congress and threatened to cripple the whole governmental machinery, it may not be uninteresting to show how this question of the relative rights of the senate and the house, in regard to appropriation bills, presents itself here under the new constitution.

The same as in all modern states governed by constitutional rule, the French fundamental law has lodged in the house the privilege of originating all appropriation bills. The Senate, as it is with us, has to vote the money bills as well as all others, but, while our Constitution provides in express terms that the Senate shall have the right to amend all such bills, the French constitution says nothing of the kind, and it is contended that the omission distinctly implies the contrary. The clause which refers to the subject is the seventh of the organic law on the Senate. It reads as follows:

> The Senate shall have conjointly with the Chamber of Deputies the right of initiating and framing laws. Nevertheless, financial laws must be first presented and *voted* by the House.

Now, it is contended that if all the financial measures must be not only presented, but *voted* by the house before they can be acted upon in the Senate, that body is precluded from introducing in such laws any new provision. This is, I think, a rather narrow view of the subject, for, if it were adopted, the Senate could only reject the budget, and it would have no other means of informing the country of its motives in so doing, or of the changes it would like to introduce in the law, except by discussion which should take place in the Senate. If the intention of those who framed that part of the French constitution

was to so limit the action of the upper house, it is difficult to understand why they have allowed that body to interfere at all in the matter.

I see, however, that men of certain notoriety in the legal profession and republican papers of high standing are of opinion that the question cannot be solved in any way which would give jurisdiction to the Senate over appropriation bills. A few days ago one of those papers, in order to strengthen the position it had taken, made the following singular parallel between the point in question and one borrowed from our Constitution:

> The American Constitution [it said] provides that the President shall have the right to nominate, and, with the consent of the Senate, to appoint, public officers; therefore the Senate can approve or reject any nomination presented by the President. But who ever heard of the American Senate substituting its own nominations to those made by the President? Well, the analogy here is perfect. Financial measures, whatever they may be, must come, in France, from the House, as all nominations must come in the United States from the President. They go before the Senate in the same manner, and as in both cases that body is not empowered with the right to amend, it cannot do so

This controversy which has arisen is likely to assume a practical and special importance, from the fact that one of the measures adopted by the house, which was the most bitterly opposed by all shades of what is called here the *clerical* party, was the suppression of the chaplains of the regiments, and of course of all the religious practices imposed upon the soldiers, and to which they had to submit publicly as a military organization. The Catholics were very much offended by that measure, and it is well known that all their influence will be brought to bear upon the Senate, in order to induce that body to replace in the budget the appropriations for chaplains.

Should they succeed, a dead-lock, far more troublesome to the government and to the country than that we have experienced, might ensue, for the French budget is not composed, like ours, of a series of appropriation bills. It is one single law, which provides for all the expenses of the government, and of which no particular clause is valid without the others. A conflict between the upper and lower house of such a nature as to prevent the adoption of the budget, would, therefore, stop the whole machinery of the government. In view of conflicts of that kind, the rules of the two houses provide, as with us, for committees of conference, but it is difficult to see how a case like this one can be compromised. However, the question of principle will remain unsettled, and at any other time it may arise again.

As I said before, I think the intention of the National Assembly was to give the right of amendment to the Senate, and very likely they thought they had expressed themselves in such a way as to leave no room for a doubt.

It has turned out differently, but it is not the first time that laws which had received the careful attention of well-trained minds are found to contain unexpected gaps when they are submitted to trial. How deep soever may be man's thought, it can never foresee all the circumstances which spring out of experience.

I have, &c., &c.,

E. B. WASHBURNE.

No. 76.

Mr. Washburne to Mr. Fish.

No. 1386.] LEGATION OF THE UNITED STATES,
Paris, October 13, 1876. (Received October 26.)

SIR: From his connection with our revolutionary history, and from his writings, which have enjoyed a certain consideration, the life and history of Thomas Paine have always occupied a good deal of attention in our country. No part of his career has greater general interest than that connected with the French revolution. He was a member of the National Convention of France, (which opened its session September 21, 1792,) from the department of the Pas de Calais. A revolutionist by character and instinct, many of his pamphlets had been translated into French and widely read; such was the influence of his writings upon the public mind in France that he was made a French citizen by a legislative decree, in order that he might be eligible to that extraordinary convention, the history of which, for nearly a century, has challenged the profoundest interest and attention of every historian and every student of the French revolution. Though he labored under the great disadvantage of not speaking or writing the French language, still, from his character and reputation, he seems to have enjoyed a considerable influence as a member of the convention, as is evident from the fact that he was one of the members of the commission which was named to draw up the constitution of the year III.

Some days since I made application to Mr. Maury, the director-general of the national archives of France, for the purpose of ascertaining if anything could there be found in relation to Paine. One of the results of my examination was to find a most significant letter written by him to "citizen Danton," dated "May 6, 2d year of the republic," (1793.) The letter is in English, on an ordinary letter-sheet, written in a clear, legible, handsome hand. I have never seen the letter published, and I beg to send you herewith a copy thereof, for I am certain you will find it very interesting and will consider it a valuable contribution to history. Before reading the letter I was not aware that Danton understood the English language; though I had once seen it charged against him that he associated "*avec les Anglais.*" At the time of the revolution it was as unusual to hear English spoken in Paris as it is now to hear Arabic. Marat, however, must have understood the language, for he had lived some time in England, and was once a teacher in Edinburgh.

You will be struck by the friendly feeling expressed in the letter towards the "twenty-two deputies," (the Girondists,) and which shows that notwithstanding the relations Paine may have had with Danton and Marat, that his sympathies and associations were with the better elements of the convention and not with the Montagnards. His letter is dated the 6th of May, and it was on the 31st of the same month that the commune of Paris delegated its mob to go to the bar of the convention to demand the arrest of these unfortunate men. Robespierre must have known the sentiments and feelings of Paine, for I find in the curious and elaborate report made by Courtois to the national convention, on the papers seized at the house of Robespierre, an extract from his note-book which is as follows: "*Demandé que Thomas Payne soit décité d'accusation pour les intérêts de l' Amérique autant que la France.*" Happily for Paine, the 9th Thermidor overtook Robespierre before his name was added to the long lists of victims which that sanguinary apostle of the revolution was daily sending to the guillotine.

The decree which naturalized Paine was passed by the legislative assembly August 22, 1792, and just in time to qualify him as a candidate for the national convention. He was not only chosen for the Pas de Calais, but in Abbeville, Beauvais, and Versailles. He elected to sit for the Pas de Calais. The decree of his naturalization was afterwards revoked, and his name stricken off the list of members of the convention. He was imprisoned in the Luxembourg, but was finally released through the intervention of our minister, at that time Mr. Monroe. It was his refusal to vote for the death of the king, and his opposition to the revolutionary government, that lost him caste with the controlling elements of the time. It is possible I may find some other facts connected with him, and if so will make them the subject of another dispatch. The charm and fascination of French revolutionary history holds the same empire over me as it does over all who are subjected to its wonderful influence.

I have, &c.,

E. B. WASHBURNE.

[Inclosure.]

Mr. Paine to Citoyen Danton.

PARIS, *May* 6, (*second year of the republic.*)

CITOYEN DANTON: As you read English, I write this letter to you without passing it through the hands of a translator.

I am exceedingly distressed at the distractions, jealousies, discontents, and uneasiness that reign among us, and which, if they continue, will bring ruin and disgrace on the republic. When I left America in the year 1787 it was my intention to return the year following, but the French revolution, and the prospect it afforded of extending the principles of liberty and fraternity through the greater part of Europe, have induced me to prolong my stay upwards of six years. I now despair of seeing the great object of European liberty accomplished, and my despair arises not from the combined foreign powers, not from the intrigues of aristocracy and priestcraft, but from the tumultuous misconduct with which the international affairs of the present revolution is conducted.

All that can now be hoped for is limited to France only, and I perfectly agree with your motion of not interfering in the government of any foreign country, nor permitting any foreign country to interfere in the government of France. This decree was necessary as a preliminary towards terminating the war; but while those internal contentions continue, while the hope remains to the enemy of seeing the republic fall to pieces, while not only the representatives of the departments but representation itself is publicly insulted, as it has lately been and now is, by the people of Paris, or at least by the tribunes, the enemy will be encouraged to hang about the frontiers and wait the event of circumstances.

I observe that the confederated powers have not yet recognized Monsieur or d'Artois as regent, nor made any proclamation in favor of any of the Bourbons; but this negative conduct admits of two different conclusions. The one is that of abandoning the Bourbons and the war together; the other is that of changing the object of the war and substituting a partition scheme in the place of their first object, as they have done by Poland. If this should be their object the internal contentions that now rage will favor that object far more than it favored their former object. The danger every day increases of a rupture between Paris and the departments. The departments did not send their deputies to Paris to be insulted, and every insult shown to them is an insult to the departments that elected and sent them. I see but one effectual plan to prevent this rupture taking place, and that is to fix the residence of the convention and of the future assemblies at a distance from Paris.

I saw, during the American Revolution, the exceeding inconveniences that arose by having the Government of Congress within the limits of any municipal jurisdiction. Congress first resided at Philadelphia, and, after a residence of four years, it found it necessary to leave it. It then adjourned to the State of Jersey; it afterwards removed to New York; it again removed from New York to Philadelphia, and, after experiencing in every one of those places the great inconvenience of a government within a government, it formed the project of building a town, not within the limits of any mu-

nicipal jurisdiction, for the future residence of Congress. In every one of the places where Congress resided the municipal authority privately or openly opposed itself to the authority of Congress, and the people of each of those places expected more attention from Congress than their equal share with the other States amounted to. The same things now takes place in Paris, but in a far greater excess.

I see also another embarrassing circumstance arising in Paris, of which we have had full experience in America. I mean that of fixing the price of provisions. But if this measure is to be attempted, it ought to be done by the municipality. The convention has nothing to do with regulations of this kind, neither can they be carried into practice. The people of Paris may say they will not give more than a certain price for provisions, but as they cannot compel the country-people to bring provisions to market, the consequence will be directly contrary to their expectations, and they will find dearness and famine instead of plenty and cheapness. They may force the price down upon the stock in hand, but after that the market will be empty. I will give you an example.

In Philadelphia we undertook, among other regulations of this kind, to regulate the price of salt; the consequence was that no salt was brought to market, and the price rose to thirty-six shillings sterling per bushel. The price before the war was only one shilling and sixpence per bushel; and we regulated the price of flour (farine) till there was none in the market, and the people were glad to procure it at any price.

There is also a circumstance to be taken into the account which is not much attended to. The assignats are not of the same value they were a year ago, and as the quantity increase the value of them will diminish. This gives the appearance of things being dear when they are not so in fact, for in the same proportion that any kind of money falls in value, articles rise in price. If it were not for this the quantity of assignats would be too great to be circulated. Paper money in America fell so much in value from the excessive quantity of it, that in the year 1781 I gave three hundred paper dollars for one pair of worsted stockings. What I write you on this subject is experience, and not merely opinion.

I have no personal interest in any of those matters, nor in any party disputes; I attend only to general principles. As soon as a constitution shall be established, I shall return to America, and be the future prosperity of France ever so great, I shall enjoy no other part of it than the happiness of knowing it. In the mean time I am distressed to see matters so badly conducted, and so little attention paid to moral principles. It is these things that injure the character of the Revolution, and discourage the progress of liberty all over the world.

When I began this letter I did not intend making it so lengthy, but since I have gone thus far I will fill up the remainder of the sheet with such matters as shall occur to me.

There ought to be some regulation with respect to the spirit of denunciation that now prevails. If every individual is to indulge his private malignancy, or his private ambition, to denounce at random and without any kind of proof, all confidence will be undermined and all authority be destroyed. Calumny is a species of treachery that ought to be punished as well as any other kind of treachery. It is a private vice, productive of a public evil, because it is possible to irritate men into disaffection by continual calumny, who never intended to be disaffected. It is, therefore, equally as necessary to guard against the evils of unfounded or malignant suspicion as against the evils of blind confidence. It is equally as necessary to protect the characters of public officers from calumny as it is to punish them for treachery or misconduct. For my own part I shall hold it a matter of doubt, until better evidence arise than is known at present, whether Dumourier has been a traitor from policy or from resentment. There certainly was a time when he acted well, but it is not every man whose mind is strong enough to bear up against ingratitude, and I think he experienced a great deal of this before he revolted.

Calumny becomes harmless and defeats itself when it attempts to act upon too large a scale. Thus, the denunciation of the sections against the twenty-two deputies falls to the ground. The departments that elected them are better judges of their moral and political characters than those who have denounced them. This denunciation will injure Paris in the opinion of the departments, because it has the appearance of dictating to them what sort of deputies they shall elect. Most of the acquaintance that I have in the convention are among those who are in that list, and I know there are not better men nor better patriots than what they are.

I have written a letter to Marat of the same date as this, but not on the same subject. He may show it to you if he chooses.

Votre ami,

THOMAS PAINE. [SEAL.]

No. 77.

Mr. Washburne to Mr. Fish.

No. 1390.] LEGATION OF THE UNITED STATES,
Paris, October 23, 1876. (Received November 10

SIR: Mr. Monroe was our minister at Paris at one of the most interesting epochs of the French Revolution. He was received by the National Convention of France in full session on the 15th of August, 1794, (28 Thermidor, year II,) which was only about three weeks after the fall of Robespierre, on the 27th of July, 1794, (9 Thermidor, year II.) As this was the first instance in which a minister had been accredited to the French Republic. There was some delay in the "committee of public safety" in regard to the presentation of his letters of credence, caused by the necessity of establishing some general regulation on the subject. The correspondence of Mr. Monroe with his government at this period (including that in regard to his reception) is very interesting, and is found in the first volume of the American State Papers. As nothing appeared there, however, in regard to the proceedings of the Convention on the day of the reception, I took occasion a few days since, at the national archives, to look up the "*procès verbal*" (journal) of that body on that day. In order to fill the gap, and in the interest of the history of those extraordinary times, I beg to send you a copy which I made myself from the journal, in which I am confident you will find a certain interest.

[Translation.]

Extract from the "procès verbal" of the National Convention, of August 15, 1794.

The Citizen James Monroe, minister plenipotentiary of the United States of America near the French Republic, is admitted in the hall of the sitting of the National Convention. He takes his place in the midst of the representatives of the people, and remits to the president, with his letters of credence, a translation of a discourse addressed to the National Convention; it is read by one of the secretaries. The expressions of fraternity, of union, between the two people, and the interest which the people of the United States take in the success of the French Republic are heard with the liveliest sensibility and covered with applause.

Reading is also given to the letters of credence of Citizen Monroe, as well as to those written by the American Congress and by its president, to the National Convention and to the committee of public safety.

In witness of the fraternity which unites the two people, French and American, the president gives the accolade (fraternal embrace) to Citizen Monroe.

Afterward, upon the proposition of many members, the National Convention passes with unanimity the following decree:

ARTICLE I.

The reading and verification being had of the powers of Citizen James Monroe, he is recognized and proclaimed minister plenipotentiary of the United States of America near the French Republic.

ARTICLE II.

The letters of credence of Citizen James Monroe, minister plenipotentiary of the United States of America, those which he has remitted on the part of the American Congress and of its president, addressed to the National Convention and to the committee of public safety, the discourse of Citizen Monroe, the response of the president of the Convention, shall be printed in the two languages, French and American, and inserted in the bulletin of correspondence.

ARTICLE III.

The flags of the United States of America shall be joined to those of France, and displayed in the hall of the sittings of the Convention, in sign of the union and eternal fraternity of the two people.

You will observe in Article II of the decree that it was ordered that the letters of credence and the discourse of Mr. Monroe and the president of the Convention should be "printed in the two languages, French and American." The frantic hatred of the revolution toward England at that time would not permit the Convention to recognize our mother tongue as the English language.

The president of the Convention, when Mr. Monroe was received, was Antoine Philippe Merlin, a deputy from the department of the Nord, and a lawyer at Douai, but he was always called and known as "Merlin de Douai" to distinguish him from Antoine Merlin, another deputy from the department of the Moselle, a lawyer at Thionville, who was known as "Merlin de Thionville." It was, therefore, Merlin de Douai, as president of the convention, who, by its order, gave Mr. Monroe the "accolade." In my own experience as minister here I have had occasion, in a very subordinate way, to know something of this "accolade." For many days after I had, by your instructions, recognized the republic, which was proclaimed on the 4th of September, 1870, regiment after regiment of the national guard marched to the legation to make known to our Government, through me, their profound appreciation of its prompt action in recognizing the government of the national defense. Forming on the corner of the rue de Chaillot and the avenue Josephine, they would send up cheers and cries of "Vive la republique," till I would appear on the balcony to make my acknowledgments. Then some officers of the regiment would be deputed to call upon me in the chambers of the legation to tender me their personal thanks for my agency in the matter of recognition of their new government, and to give me the fraternal *embrace*, ("accolade,") which was carried out in letter and spirit, and sometimes much to the amusement of the numerous visitors who were present on the occasion.

I have, &c.,

E. B. WASHBURNE.

GERMANY.

No. 78.

Mr. Davis to Mr. Fish.

No. 291.] LEGATION OF THE UNITED STATES,
Berlin, February 28, 1876. (Received March 20.)

SIR:

* * * * * * *

I inclose a copy of the proposed law relating to the Lutheran Church, together with a translation.

* * * * * * *

I have, &c.,

J. C. BANCROFT DAVIS.

[Inclosure.—Translation.]

A law proposed for the organization of the church.

A proposed law concerning the organization of the Evangelical church in the eight older provinces of the monarchy, which has just been received by the Abgeordnetenhaus, is as follows:

We, William, by the grace of God King of Prussia, &c., ordain, with the concurrence of both houses of the Landtag of the monarchy, for the provinces of Prussia-Brandenburg, Pomerania, Posen, Silesia, Westphalia, and for the Rhenish province, the following:

ARTICLE 1.

The synod-organs provided for by the "regulation of church communities and synods," dated 10th September, 1873, (laws of 1874, p. 151,) and by the regulation of general synods, dated 20th January, 1876, and attached hereto, shall exercise the following rights according to the provisions of this law:

ARTICLE 2.

The circuit-synod shall exercise the rights assigned to it in the regulation for church communities and synods dated 10th September, 1873, concerning—

1. The common arrangements and institutions for the Christian works of love. (§ 53, No. 5.)
2. The cash and account matters of the several communities and of the ecclesiastical foundations within the district. (§ 53, No. 6.)
3. The cash of the circuit-synod, the accountant of the circuit-synod, the budget of the cash, and the repartition of the necessary contributions of the church cashes and of the communities. (§ 53, No. 7.)
4. The statutory orders. (§ 53, No. 7.)

The resolutions necessary for the execution of these rights shall be passed, as provided by § 52, clauses 3 and 4; § 51, clause 2.

ARTICLE 3.

The communities shall have the right to complain of the resolutions of the circuit-synod for repartition of the necessary contributions to the cash of the circuit-synod within two weeks from notice of the resolution on account of an overburdening as compared with other communities.

These complaints are decided upon by the state officials.

ARTICLE 4.

The establishment of statutory regulations within the business jurisdiction assigned to the circuit-synod, which are modified or perfected by the regulation for church communities and synods, dated 10th September, 1873, (§ 53, No. 8; § 65, No. 5,) requires the prior recognition by the state officials, that the proposed provision is not contrary to the law of 25th May, 1874, and this law.

ARTICLE 5.

The direction of the circuit-synod exercises the right to make preliminary decision in cases of co-supervision assigned to the synod by § 53, Nos. 5 and 6, requiring haste (§ 55, No. 6.)

ARTICLE 6.

The rights which belong to the circuit-synod and its direction, according to articles 2 to 5, are transferred to the circuit synods and their directions, for the common affairs in the cases provided for by § 57, clause 1.

ARTICLE 7.

If the jurisdiction of a circuit-synod, or of a union of circuit-synods formed according to § 57, clause 1, or of their direction, according to clause 2 of this paragraph, with reference to peculiar arrangements or wants of a circuit, a regulation shall be issued in accordance with the provisions of the clause mentioned.

Article 4 of this law is applicable to the establishment of the same.

ARTICLE 8.

The united circuit-synods of the capital, Berlin, can receive, by the regulation for the same, the right—

1. To establish a synod-cash, and to levy general assessments in the several communities of the district of the synod for the supply of the needs of the church. The assessments must be made equally and contemporaneously in all of the communities, and the provisions of § 31, No. 6, of the regulation for church communities and synods of 10th September, 1873, shall be applied for the proportion of the repartition. Article 3, clauses 3 and 4, of the law of 25th May, 1874, shall apply to the resolutions concerning each assessment.
2. To pass resolutions concerning the alteration, abolition, or introduction of general fee-lists for all of the communities.

ARTICLE 9.

The provincial-synod shall exercise the rights assigned it in the regulation for church communities and synods dated 10th September, 1873, concerning—

1. The statutory provisions resolved by the circuit-synods. (§ 65, No. 5.)
2. The synod widow and orphan funds, the provincial funds and foundations, the cash of the circuit-synod and of the provincial-synod. (§ 65, No. 6.)
3. New church expenses for provincial purposes. (§ 65, No. 7.)
4. The application of the amount of the collections to be made in church and dwellings for the benefit of the needy communities of the district, (§ 65, No. 8,) before every assembly of the provincial-synod, or to be annually made in the province. The right to order a collection of such collection does not require the special authorization of an official of the state; but the oberpräsident must first be notified of the time of such collection.

The resolutions necessary for the execution of these rights shall be passed according to the provisions of § 70, clauses 1, 2.

ARTICLE 10.

The new church expenses for provincial purposes, (§ 65, No. 7, of the regulation for church communities and synods,) resolved by the provincial-synods are distributed among the cashes of the circuit-synods in accordance with the rules established in §§ 72, 73.

The resolution approving the expense and the repartition, require the approval of the state official. This approval is particularly to be refused, if question arises concerning the regularity of the resolution, the appropriateness of the proportion of distribution, or the ability of the district to pay.

ARTICLE 11.

The provisions of §§ 71, 74, of the regulation for church communities and synods, dated 10th September, 1873, concerning the expenses of the circuit and provincial synods, shall be applied as soon as the new synod-organs shall have been organized in accordance with §§ 43, 46, of the regulation for the general synod, dated 20th January, 1876.

ARTICLE 12.

Church laws and regulations, be they for the church of the state or for the several provinces or districts, shall only be valid in so far as they do not come into conflict with the laws of the state.

Before a law adopted by a provincial-synod (§ 65, No. 3, of the regulation for church communities and synods,) or by a general synod, (§ 6, of the regulation for the general synod, dated 20th January, 1876,) shall be handed to the King for his approval, the minister for ecclesiastical affairs is first to declare whether any objection is to be made to the issue of the same on behalf of the state.

Clause 4 of § 6 of the regulation for the general synod, dated 2d January, 1876, is also applicable to provincial church laws.

The provisions of this article also apply to the district of the "regulation for church matters, dated 5th March, 1835, for the province of Westphalia and the Rhenish province."

ARTICLE 13.

The general synod exercises the rights assigned to it in the regulation for the general synod, dated 20th January, 1876, concerning—

1. The church fund placed under the administration and disposition of the evangelical (*Oberkirchenrath*) upper church council, (§§ 11, 12.)
2. New expenses for purposes of the state church, (§ 14.)
3. Applying the receipts from the property of the church and from the benefices for contributions for church purposes, (§ 15.)

The resolutions necessary for the execution of these rights shall be passed in accordance with the provisions of § 32, clauses 2, 4, and 5.

ARTICLE 14.

Church laws by which new expenses for purposes of the church of the state shall be approved, (§ 14 of the regulation for the general synod, dated 20th January, 1876,) and the final agreement between the general and the church government concerning the distribution of the assessment among the provinces (§ 14, clause 2, of the last-mentioned law,) require the approval of the minister of state to become valid.

The royal ordinance concerning the provisional establishment of the proportion of distribution (§ 14, clause 2,) must be countersigned by the ministry of state.

The subdistribution in the provinces of Prussia, Brandenburg, Pomerania, Posen

Silesia, and Saxony shall be made according to article 10. The subdistribution in the province of Westphalia and in the Rhenish province shall be made according to § 135 of the regulation for church matters, dated 5th March, 1835. The list for the distribution among the circuit-synods shall be approved in accordance with article 10, clause 2, and that for the distribution among the communities in accordance with article 3.

ARTICLE 15.

Church laws by which the receipts from the church property or from the benefices shall be applied for contributions for church purposes (§ 15 of the regulation for the general synod, dated 20th January, 1876,) must order the payment in the several classes of church-cashes or benefices in like percentages and require the approval of the minister of ecclesiastical affairs.

The approval shall not be refused if the law has been regularly passed and the contents of the same are in harmony with § 15 of the regulation for the general synod, dated 20th January, 1876.

The contributions can be collected by way of administrative-execution.

Exception can be taken to the execution within two weeks from the receipt of the request to pay, on the ground that the assessment is not in accordance with law, or that the calculation of the amount is incorrect.

The state official decides on these complaints.

ARTICLE 16.

The direction of the general synod exercises the rights assigned it in §§ 11, 12 of the regulation for the general synod, dated 20th January, 1876, and has the administration of the cash of the general synod. (§ 34, No. 6.)

The resolutions necessary for the execution of these rights shall be passed in accordance with § 35, clauses 2 and 3.

ARTICLE 17.

The evangelical church of the state shall be represented in its property affairs by the evangelical upper church council, (*Oberkirchenrath,*) in association with the direction of the general synod. (§ 36, No. 4 of the regulation for the general synod, dated 20th January, 1876.)

Instruments of writing to bind the church of the state must show in their execution that the direction of the general synod took part in the resolution, and require the signature of the president of the evangelical upper church council or his attorney, and the seal of office.

ARTICLE 18.

§§ 38 to 40 of the regulation for the general synod, dated 20th January, 1876, is applicable for the expenses of the general synod, its directors, committees, and commissions, and also for those of the synod-council.

ARTICLE 19.

The administration and the direction of the affairs of the evangelical church of the state, in so far as this has been with the minister of ecclesiastical affairs, is transferred to the evangelical upper church council, and in so far as it has been with the governments, to the consistory.

The time and execution of this transfer is reserved for royal ordinance.

ARTICLE 20.

Nothing is changed by this law in the jurisdiction of the officials with reference to the presentation affairs, and the ecclesiastical affairs of the military and of the public institutions.

ARTICLE 21.

To the state officials remain—

1. The order and execution of police regulations necessary to uphold the outer order of the church.
2. The regulation of contested building affairs for church, parsonage, and sexton's buildings, and the provisional execution of the decisions in this case.
3. Collection of the church taxes.
4. The keeping of the church books in so far as these are records of the civil status.
5. The issue of certificates concerning the facts which entitle to dispensation from costs.
6. Co-action in changing existing parishes or forming new ones.
7. Co-action in filling offices of the church administration or ordering an administration of the same by a commission.

ARTICLE 22.

The resolutions of the organs of the church require to become valid the approval of the supervisory officials of the state in the following cases:

1. The purchase, sale, or mortgaging of real estate.
2. The sale of objects having a historical, scientific, or art value.
3. Loans, in so far as they do not only serve a temporary purpose, and cannot be repaid from the receipts of the same period.
4. In the introduction and change of the list of costs.
5. The erection of new buildings, to be used as churches or for parsons or servants of the church.
6. The establishing or changing of burial grounds.
7. The publishing, preparing, or carrying out collections outside of the church-building without prejudice to article 9, No. 4.
8. The use of the property of the church for other than the fixed purposes. Gifts from the cash of the church to other communities or for the support of evangelical institutions, if they do not exceed in each case 2 per cent. of the total amount of the receipts of one fiscal year, and altogether do not exceed 5 per cent., do not require the approval of the state officials.

ARTICLE 23.

Gratuitous grants and grants made by testament or last will are subject to the law of 23d February, 1870.

ARTICLE 24.

The organs of the church do not require authorization from state officials to carry on suits at law.

ARTICLE 25.

The state official has a right to examine into the administration of the property of the church, and for this purpose demand the budgets and accounts; also to make extraordinary revisions and to insist on correction of anything found to be contrary to law, by using for this purpose the means allowed by law.

ARTICLE 26.

A royal ordinance will determine which state officials are to exercise the rights mentioned in articles 3, 5, and 8 of the law of 25th May, 1874, and in articles 3, 4, 7, 8, 10, 15, clause 5, articles 21, 22, 25, of this law.

ARTICLE 27.

All the provisions contrary to this law, to the regulation for church communities and synods, dated 10th September, 1873, §§ 2–5, and to the annexed regulation for the general synod, dated 20th January, 1876, be they contained in general laws of the land, provincial, or local laws or orders, or be they based on observance or custom, are hereby abolished.

Officially, &c., authenticated minister of ecclesiastical, school, and medical affairs.

FALK.

No. 79.

Mr. Davis to Mr. Fish.

No. 321.] LEGATION OF THE UNITED STATES,
Berlin, March 27, 1876. (Received April 13.)

SIR: When I took charge of this legation I found that the system of records of passports which had been established by Mr. Wheaton at a time when few passports were issued was still adhered to. I inclose a copy of a single page of this record, in order to show how meager were the details which it afforded; quite sufficient, indeed, for the time when it was adopted, but totally inadequate for the wants of to day, when American citizenship and American protection are sought by so many designing persons, without an intent of residing in America, or of performing any duties in return for the protection.

On reflection I thought it best to abandon the old memorandum-record, and to substitute in its place an original application, signed by the applicant, in which should be set forth all the facts necessary to be known to warrant the issuing of the passport, this application to be taken in duplicate, in order that one copy might be transmitted to the Department of State with the quarterly return of passports, and that the other copy might be retained in the legation as evidence of the issue of the passport, to be bound and indexed when there should be a sufficient number. I inclose copies of the forms now in use, as well those for native citizens as those for naturalized citizens. I also inclose copies of circulars which have been from time to time sent to consuls by this legation, to instruct them in the use of these forms.

The first secretary of this legation, Mr. Nicholas Fish, has voluntarily, and with considerable labor, analyzed the information contained in such passport-applications for the year 1875, and has prepared a series of tables which appear to me worthy of being brought to the notice of the Department for the valuable information which they contain. I therefore inclose copies of them. Mr. Fish's tables yield some instructive results. The whole number of passports issued during the year was 223, of which 124 were issued to native citizens, and 99 to naturalized citizens.

Of the naturalized citizens, 19 had resided in the United States less than six months after their respective naturalization; 6 more than six months but less than a year; 15 more than one year but less than two years; 5 more than two years but less than three years; 5 more than three years but less than four years; 4 more than four years and less than five years; and in ten cases the length of residence in America after naturalization was not given.

In respect of the length of continued residence in Germany, in two cases it was not stated; in eight cases it was more than ten years; in sixteen cases it was more than five years but not ten years; and in thirty-two cases it was more than two years but not five. The average residence in Germany is about four and a half years.

The names of one hundred and two minors are added to the names of applicants in the passports. Of these, twelve only are children of native-born citizens. The protection of the United States is extended over ninety minors, whose parents are naturalized citizens of the United States residing in their native country. The average residence in Germany of the parents is exactly six years.

* * * * * * *

I have, &c.,

J. C. B. DAVIS.

[Inclosure 1 in No. 321.]

Copy of page 2 in Passport-Register No. 1 of United States legation at Berlin.

Date.	No.	Name.	Birthplace.	Authority.	Place of destination.
1838.					
June 15	15	John W. Cochran	United States.	Known	De Hambourg à Varsovie.
June 15	16	Aloni C. Goele	Boston	do	Do.
July 4	17	Theodore T. Moss	Philadelphia	Passport from Mr. Cuthbert.	De Hambourg à Dresde.
July 19	18	John W. Cochran	United States.	Known	A Constantinople, (porteur des dépêches.)
July 28	19	Augustus Grosshardt	Berlin	Passport, (naturalized.)	A Hambourg.
Aug. 13	20	Theodore S. Fay	United States	Known	Do.
Oct. 27	21	Miss Emily Zimmermann	Switzerland	A provisionary passport.	England by France.
1839.					
Feb. 23	22	John J. Flagg	United States.	London passport	A St. Petersbourg par Koenigsberg.
Mar. 21	23	Edward E. Salsbury, lady, and 2 servants.	do	do	A Paris.
April 6	24	Joshua Dodge	do	Known	A Paris, agent diplomatique et attaché à la légation des Etats-Unis d'Amérique et porteur des dépêches.
April 15	25	John McLean Halsey, mother, two sisters, and brother.	do	Passport	Belgium and France by Frankfort-on-the-Main.
April 18	26	N. W. Hazen	Massachusetts	do	England by Belgium.
May 12	27	Augustus C. Thomson	United States.	Passport from mayor of New York.	A Paris.
May 20	28	Thomas Palmer	do	London passport	A Dresde.

[Inclosure 2 in No. 321.]

Form of application for a passport by a native.

No. ———. Issued ———, 187–.

NATIVE.

Applicant, ——— ———.

I hereby apply to the legation of the United States at Berlin for a passport for myself, my wife, and minor children, as follows: ——— ———, born at ———, on the ——— day of ———, 18—; and ——— ———.

In support of the above application I swear that I was born at ———, on or about the ——— day of ———, 18—; that my father is a ——— citizen of the United States; that I am a native and loyal citizen of the United States temporarily residing at ———; that I left the United States on the ——— day of ———, 18—; that I am the bearer of passport No. ———, issued by ——— ———, on the ——— day of ———, 18—.

LEGATION OF THE UNITED STATES,
Berlin, Germany.

Sworn to before me this ——— day of ———, 18—.

———,
Secretary of Legation.

Identification.

I, ——— ———, of ———, hereby declare that I am acquainted with the above-named ——— ———, and know him to be a native-born citizen of the United States.

———.

Description of applicant.

Age, —— years.	Mouth, ——.
Stature, —— feet —— inches.	Chin, ——.
Forehead, ——.	Hair, ——.
Eyes, ——.	Complexion, ——.
Nose, ——.	Face, ——.

Oath of allegiance.

I, ——— ———, do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign; and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State, convention, or legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge, and

purpose, without any mental reservation or evasion whatsoever; and further, that I will well and faithfully perform all the duties which may be required of me by law: So help me God.

———— ————.

LEGATION OF THE UNITED STATES, BERLIN.

Sworn to before me this ——— day of ———, A. D. 18—.

———— ————,
Secretary of Legation.

[Inclosure 3 in No. 321.]

Form of application for a passport by a naturalized citizen.

No.——— Issued ———, 18—.

NATURALIZED.

Applicant ———— ————.

I hereby apply to the legation of the United States at Berlin for a passport for myself, my wife, and my minor children, as follows, viz: ———— ————, born at ——— on the ——— day of ———, 18—, and ———— ————, ———— ————.

In support of the above application, I do solemnly swear that I was born at ——— on or about the ——— day of ———, A. D. 18—; that I emigrated to the United States on or about the ——— day of ———, A. D. 18—; that I resided uninterruptedly in the United States from ——— to ———, to wit, at ———; that I was naturalized as a citizen of the United States before the ——— court of ———, at ———, on the ——— day of ———, A. D. 18—, as shown by the accompanying certificate of naturalization; that I am the bearer of passport No. ———, issued by ———— ————, on the ——— day of ———, A. D. 18—, and No. ———, which are returned herewith; that I am the identical person referred to in said certificate and passport; that I last left America on the ——— day of ———, A. D. 18—; that I have resided in the United States since the ——— day of ———; that I am now temporarily residing at ———; and that I intend to return to the United States on or about the ——— day of ———, with a purpose of residing there.

———— ————,
Applicant.

LEGATION OF THE UNITED STATES AT BERLIN.

Sworn to this ——— day of ———, A. D. 18—, before me.

———— ————,
Secretary of Legation.

Identification.

———, A. D. 18—.

I hereby certify that I know the within named ———— ———— personally, and know him to be the identical person referred to in the within-described certificate of naturalization.

Description of applicant.

Age, ——.	Mouth, ——.
Stature, ——.	Chin, ——.
Forehead, ——.	Hair, ——.
Eyes, ——.	Complexion, ——.
Nose, ——.	Face, ——.

Oath of allegiance.

I, ———— ————, do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State convention or legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatsoever; and further, that I will well and faithfully perform all the duties which may be required of me by law: So help me God.

———— ————.

LEGATION OF THE UNITED STATES, BERLIN.

Sworn to before me this ——— day of ———, A. D. 18—.

———— ————,
Secretary of Legation.

[Inclosure 4 in No. 321.]

Circular to consuls, January 9, 1875.

AMERICAN LEGATION,
Berlin, January 9, 1875.

——— ———, Esq.,
Consul of the United States at ———:

SIR: I inclose herewith blank forms of application for passports. These forms are to be filled out in duplicate, each of which is to be an original, and only one fee of 50 cents for each oath, or $1 in all, charged to the applicant. You will continue to collect 21 R. marks as the Government tax, which you will transmit to the legation with the duplicate application.

Section 42 of the consular regulations does not apply to correspondence relative to the issue of passports by the legation.

You will therefore correspond directly with the legation on these subjects.

In all cases of naturalized citizens the original or a certified copy of the decree of the court by which he was declared to be a citizen of the United States must be transmitted with the application.

If the applicant is in possession of a passport, either from the Department of State or otherwise, it must also be transmitted, and you are requested to make particular inquiries on this point.

I am, sir, your obedient servant,

J. C. BANCROFT DAVIS.

[Inclosure 5 in No. 321.]

Circular to consuls, June 14, 1875.

LEGATION OF THE UNITED STATES,
Berlin, June 14, 1875.

TO THE CONSULAR OFFICERS OF THE UNITED STATES IN GERMANY:

All consular officers of the United States, on receiving an application for protection or for a passport, from a person claiming to be a citizen of the United States, should proceed at once to take proof of the citizenship of the applicant. The statutes of the United States make it the duty of all officers to afford to naturalized citizens the same protection of persons or property which is accorded to native-born citizens.

If the applicant be a native-born citizen, and be not personally known to the consular officer, satisfactory proof must be furnished of the place of his nativity, and also of his age; and he must satisfactorily identfy himself.

If he be a naturalized citizen, the consular officer should ascertain, by similar proof, the date and place of his birth, the court where he was naturalized, and the date of the naturalization.

The best proof of the naturalization is, in all cases, the certified copy of the record of court, commonly called a certificate of naturalization. In the absence of that paper a passport from the Department of State, or from a legation of the United States, may be accepted, but the applicant should in all cases be required to state under oath the time and place of naturalization, and to account for the want of a citizen-paper. Should the applicant have neither a certificate of naturalization nor a passport, his application *for a passport* must be refused. The instructions from the Department of State are positive on this point, and *admit of no exception.* (But an application *for protection* will be differently dealt with, as hereinafter stated.)

Should the application be made by the widow of a naturalized citizen, it will be necessary to prove in the same way the naturalization of the husband, and that the applicant was his wife and remains his widow.

Should the application be made by a person whose father was a naturalized citizen, and who was a minor at the time of his naturalization, it will be necessary to prove in the same way the naturalization of the father, and that the applicant is his son, and resided in the United States.

Should the application be made on behalf of minor children of an American citizen, the consular officer must inquire how many children there are, the name of each, and where each was born; and should it appear that any one was born during the temporary domicile of the father in Germany, the officer must inform the applicant of the instructions in paragraph 115 of the new Consular Regulations. This rule applies equally to the children of native and of naturalized citizens.

The naturalization treaties with the German states contemplate that the return and domiciliation of a naturalized citizen in his native land, without intent to return to America, are to be taken to work a renunciation of the naturalization. They also provide that a continued residence of two years *may* be regarded as evidence of an intent not to return.

There are many reasons why a naturalized citizen may in good faith remain in his native country as a resident more than two years, and yet intend in good faith to return to America. Consular officers must be careful, therefore, not to assume from this fact that a naturalized German has lost his acquired nationality.

On the other hand it is unfortunately true that there are persons residing in Germany who have been naturalized in America for the sole purpose of returning here and taking up a permanent abode, in the hope of escaping duties to the state of their nativity by public professions of a purpose to return to the state of their adoption.

Such persons forget that citizenship is a privilege which calls for the performance of duties. By their fraudulent conduct they affect injuriously the situation in Germany of *bona-fide* naturalized American citizens who return here to visit their friends and relatives, and thus innocent persons become exposed to unjust suspicion and sometimes to annoying treatment.

Consular officers must, therefore, carefully inquire into the facts and circumstances in each particular case, as, for instance, whether the applicant is married or single; if he be married, whether his family or any part of it is domiciled in Germany; whether he has a domicile in America; if he has none, then where his domicile was when he last resided there; how long he resided in America, and where; what his business was there; whether he has still any business there, and generally as to all matters tending to show good faith on the part of the applicant. The honest emigrant will not fear such an inquiry, for it is made in his interest. If the officer have cause to doubt the truth of any statement, he may require it to be sworn to before some local German officer qualified to administer oaths.

Unless the result of such inquiries show that the applicant has returned to Germany with a purpose of living here, and without an intent to return to America, the applicant must be regarded as an American citizen, and the case must be referred to the legation. Indeed, all cases should be referred to the legation for final settlement, but in so referring them consular officers should set forth all facts bearing upon the right of an applicant to ask for protection or for a passport.

In all cases of applications for passports, the consular officer must ascertain whether the applicant has already one or more passports, and must take up all outstanding passports more than two years old, and return them to the legation with the application for a new passport.

But if the applicant is in possession of a passport which is not two years old, the consular officer must tell him that his passport is still valid, and that he will not require a new one until the expiration of two years from the date of the old one.

Should the application be for protection against an attempt to compel the applicant to do military service in Germany, or against an act of local officers, the consular officer in addition to personal efforts in support of the application should (unless he be satisfied that his personal intervention will accomplish all that may be desired) also report the case to the legation, accompanied by proper proof of the citizenship of the applicant, and by a statement of any other facts important to be known.

If the applicant has a citizen-paper or a passport, they should be forwarded with the report. If he has neither, the best proof of citizenship possible under the circumstances must be forwarded for the consideration of the legation. And in all such cases the consular officer in addition to the proof of citizenship should forward evidence that the applicant has resided five years in the United States, as required by the treaties.

If there be any facts tending to throw doubt upon the good faith of the applicant, they should be set forth fully; and all these reports should be made by the earliest possible mail *to the legation direct.*

The responsibility of deciding upon the propriety or justice of these various applications is placed by law in the legation. But consular officers must be held in the responsibility of making the investigations on which the applications are founded, of carefully inquiring into all the circumstances, and of bringing to the notice of the legation all facts bearing favorably or unfavorably upon the requests of the applicants

J. C. BANCROFT DAVIS.

[Inclosure 6 in No. 321.]

Table showing periods of residence of naturalized citizens in the United States before and after naturalization, time since leaving, age at emigration, and total period in the United States and in Germany.

Number of passport.	In the United States—				Since leaving the United States.		Age at emigration to United States.		Total—			
	Before naturalization.		After naturalization.						In United States.		In Europe.	
	Years.	Months.	Years.	Months.	Years.	Months.	Years.	Months.	Years.	Months.	Years.	Months.
54	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
55	(*)	(*)	(*)	(*)	5	.....	(*)	(*)	(*)	(*)	(*)	(*)
56	In U. S. 17 years 10 mos.				5	.....	16	2	17	10	(*)	(*)
58	15	.....	7	6	4	9	8	.....	22	6	12	9
59	5	.....	20	.....	4	9	21	2	25	.....	25	11
61	6	5	12	6	9	6	36	1	18	11	45	7
62	6	9	17	3	1	7	14	4	24	.....	15	11
63	6	6	1	5	7	10	11	5	7	11	19	3
68	5	4-30	.....	11	2	11	15	11	5	11 4-30	18	10
70	19	1	.....	½	.....	3	17	1	19	1½	20	1
76	7	2	1	5	.....	9	17	10	8	7	18	7
78	5	4-30	1	1	5	8	16	11	6	1 4-30	22	7
82	5	4-30	.....	½	.....	6	17	1	5	6 4-30	27	7
83	5	9	.....	2	.....	10	19	2	5	11	20	.....
87	5	5	10	6	9	11	23	.....	15	11	32	11
89	5	10	12	4	3	10	16	4	18	2	20	2
96	24	2	.....	3	3	2	11	1	24	5	14	3
99	7	4	7	2	12	6	22	6	14	6	35	.....
100	5	.....	5	.....	2	1	18	7	10	.....	20	8
101	6	4	.....	1½	15	6	29	10	6	5½	45	4
102†	.....	.....	.....	.....	16	9	20	.....	33	.....	36	9
104	9	.....	8	7	8	.....	19	.....	17	7	17	.....
109	11	10	2	11	4	1	14	1	14	9	18	2
110	19	6	.....	3	1	11	2	5	19	9	21	8
111	5	14-30	13	10	2	.....	17	.....	18	10½	19	.....
112	6	9	3	3	19	9	21	9	10	.....	41	6
114	4	5	1	8	2	11	17	2	6	1	20	1
115	10	.....	12	.....	3	3	15	.....	22	.....	18	3
116	5	10	12	10	.....	2	17	2	18	8	17	4
118	5	4	1	5	2	.....	15	9	6	9	17	9
119	9	7	12	3	7	11	26	.....	21	10	33	11
120	5	.....	1	4	1	5	15	11	6	4	17	4
124	7	6	.....	11	.....	2	18	4	8	6	18	6
128†	.....	.....	.....	.....	.....	3	33	5	25	.....	33	8
130	5	11	.....	5	2	.....	19	3	6	4	21	3
134	6	1	1	6	14	9	29	.....	7	7	43	9
135	6	10	.....	3	2	.....	20	6	7	1	22	6
137	5	2	.....	3	1	11	19	5	5	5	21	4
138‡	(*)	(*)	(*)	(*)	3	10	24	8	7	.....	27	6
144	17	4	.....	½	1	11	7	3	17	4½	9	2
146	10	5	.....	11	.....	3	19	8	11	4	20	1
147	4	10	1	11	2	11	17	7	5	9	20	6
148	5	7	2	6	1	10	16	3	8	1	18	1
149	7	8	.....	11	.....	3	18	3	8	7	18	6
151	4	11	.....	½	4	5	18	6	5	8	22	11
154	5	3	.....	.....	20	10	23	2	5	3	44	.....
155	5	½	.....	1	3	9	19	8	5	1½	23	5
161	6	3	2	10	1	10	14	9	9	1	16	7
165	5	3	3	7	1	6	17	11	8	10	19	5
167	5	11	.....	1	4	.....	16	2	6	.....	20	2
168§	7	6	.....	.....	.....	9	10	6	8	.....	11	3
172	6	1	1	.....	2	3	23	5	7	1	25	8
174	12	9	.....	5	.....	4	13	1	13	2	13	5
176	18	7	22	10	.....	4	2	7	41	5	2	11
180†	.....	.....	.....	.....	.....	10	28	.....	20	.....	48	10
182	5	2	.....	2	2	10	17	2	5	4	20	.....
183	6	2	20	8	11	3	19	.....	26	10	30	3
184	6	4	.....	8	3	3	16	9	7	.....	20	.....

* Not given.
† Married to naturalized citizens.
‡ Passport returned August 12, 1875.
§ Minor, whose father was naturalized after he (the son) had returned to Germany.

Table showing periods of residence of naturalized citizens, &c.—Continued.

Number of passport.	In the United States— Before naturalization. Years.	Before naturalization. Months.	After naturalization. Years.	After naturalization. Months.	Since leaving the United States. Years.	Since leaving the United States. Months.	Age at emigration to United States. Years.	Age at emigration to United States. Months.	Total— In United States. Years.	In United States. Months.	In Europe. Years.	In Europe. Months.
185	5	3	1	3	4	1	19	7	6	6	23	8
186	10	11	3	7	8	8	19	4	14	6	28	.....
187	6	10	1	11	1	9	17	10	8	9	19	7
188	5	.....	14	.....	5	4	21	7	19	.....	26	11
190	15	.....	8	.....	.....	4	19	5	23	.....	19	9
191	(*)	(*)	(*)	(*)	8	6	24	11	21	6	33	5
193	4	6	14	6	17	9	32	3	19	.....	50	.....
194	14	5	4	9	2	1	44	.....	19	2	46	1
195	5	8	1	10	.....	½	16	7	7	6	17	1
199	14	.....	8	2	.....	3	25	.....	22	2	25	3
200	4	.....	10	9	2	.....	23	.....	14	9	25	.....
201	6	3	4	6	2	5	18	9	10	9	21	2
202	5	6	2	1	3	4	14	1	7	7	17	5
203	6	.....	4	1	8	1	26	8	10	1	34	9
206	20	11	6	1	.....	6	26	3	27	.....	26	9
207	5	.....	7	4	11	7	18	.....	12	4	29	7
209†	.....	.....	.....	.....	.....	4	23	3	17	4	23	7
210	5	2	21	6	7	2	22	5	26	8	29	7
213	5	1	5	.....	8	6	25	8	10	1	34	2
214	7	5	.....	10	2	1	19	4	8	3	21	5
218	6	.....	4	.....	.....	6	20	8	10	.....	21	2
220	5	11	1	10	1	11	17	2	7	9	19	1
221	5	22-30	3	5	.....	1	22	3	8	5 22-30	21	3
222	10	3	.....	½	1	11	18	11	10	3½	20	10
224	5	1	.....	¾	3	3	19	7	5	1¾	22	10
232	5	11	1	10	.....	3	15	5	7	9	15	8
235	7	4	11	1	3	11	27	10	18	5	31	9
237	26	10	.....	2	.....	10	26	6	27	.....	26	6
241	9	9	.....	4-30	.....	2	21	5	9	9 4-30	21	7
243	10	10	7	2	1	2	19	5	18	.....	20	7
247	8	.....	3	8	15	6	19	9	11	8	35	3
252	7	10	1	1	2	7	16	.....	8	11	18	7
253†	.....	.....	.....	.....	5	6	18	.....	16	.....	23	6
258	7	8	15	11	4	6	18	6	23	7	23	.....
259	5	5	2	2	1	11	17	2	7	7	19	1
262	9	.....	7	11	6	8	19	3	16	11	25	11
264	5	2	19	6	2	7	18	9	24	8	21	4
265	6	6	11	9	2	5	15	6	18	3	17	11
268	7	5	13	2	1	11	20	3	20	7	23	2
269	6	10	.....	3	3	9	13	9	7	1	17	6
270	7	2	.....	¾	1	11	20	1	7	2¾	22	.....

* Not given.

† Married to naturalized citizens.

[Inclosure 7 in No. 321.]

Table showing the ages of applicants to whom passports were issued.

Ages.	Native.	Naturalized.
Under 18	19	.....
Over 18 and under 21	28	*1
Over 21 and under 25	40	9
Over 25 and under 30	14	29
Over 30 and under 35	8	11
Over 35 and under 40	4	9
Over 40 and under 50	5	23
Over 50 and under 60	2	14
Over 60	4	3
Total	124	99

* Son of a naturalized citizen of the United States born in Germany.

[Inclosure 8 in No. 324.]

Table showing the offices through which the applications for passports were made.

Office.	Native.	Naturalized.
Berlin	34	17
Leipsic	*34	.....
Dresden	17	8
Stuttgart	†13	16
Nuremberg	.....	23
Frankfort	5	12
Mannheim	5	6
Hamburg	4	.....
Breslau	3	2
Brunswick	2	.....
Bremen	1	2
Barmen	.....	2
Munich	1	2
Mayence	.....	7
Sonneberg	1	.....
Lubec	.....	1
Cologne	1	1
Dusseldorf	1	.....
Aix-la-Chapelle	1	.....
Crefeld	1	.....
Total	124	99

* Including one born in England of American parents.
† Including one born in Germany of American parents.

[Inclosure 9 to number 312]

Table showing the ages of minors included in passports issued in 1875, their sex, and whether their parents are native or naturalized citizens of the United States.

Ages.	Native.				Naturalized.			
	Boys born—		Girls born—		Boys born—		Girls born—	
	United States.	Abroad.	United States.	Abroad.	United States.	Abroad.	United States.	Abroad
Under 5	1	.....	1	.....	2	8	4	6
Over 5 and under 10	.....	.....	.....	.....	7	3	7	5
Over 10 and under 15	.....	.....	1	.....	10	5	3	3
Over 15 and under 16	1	.....	4	.....	6	1	2	1
Over 16 and under 17	.....	.....	.....	.....	2	.....	3	.....
Over 17 and under 18	.....	.....	1	.....	1	.....	1	.....
Over 18 and under 19	.....	.....	.....	.....	3	.....	2	.....
Over 19 and under 20	.....	.....	1	.....	4	.....	.....	.....
Over 20 and under 21	1	.....	1	.....	1	.....	.....	.....
Total	3	.....	9	.....	36	17	22	15

Total born in United States	70	
Total born abroad	32	
		102
Total number of boys	56	
Total number of girls	46	
		102
Children whose fathers are native-born citizens	12	
Children whose fathers are naturalized citizens	90	
		102

[Inclosure 10 in No. 321.]

Table showing the total number of persons included in passports issued during 1875.

Applicants	223
Wives of applicants	36
Minors included in passports of their parents or guardians	102
	361

No. 80.

Mr. Fish to Mr. Davis.

No. 224.] DEPARTMENT OF STATE,
Washington, April 25, 1876.

SIR: I have to acknowledge the receipt of your No. 321, of the 27th March last, relating to the system adopted by the legation of recording passports issued therefrom.

That paper has been read and examined with interest, and is received as a valuable addition to the information which has heretofore reached the Department relating to passports.

Mr. Nicholas Fish is to be commended for the care taken by him in preparing an analysis of the passport records of the legation for the year 1875, a copy of which accompanies your dispatch. The Department has frequent occasion to appreciate the advantages accruing from the care displayed at the legation in reference to such cases.

I am, &c.,

HAMILTON FISH.

No. 81.

Mr. Davis to Mr. Fish.

No. 358.] LEGATION OF THE UNITED STATES,
Berlin, May 1, 1876. (Received May 17.)

SIR: Soon after transmitting my dispatch No. 291 to the Department, I requested Mr. Coleman to examine the various laws and papers relating to the National Evangelical (Lutheran) Church of Prussia, which might be necessary for the comprehension of the proposed law inclosed in that dispatch. Mr. Coleman's subsequent illness, and then his journey to Metz to execute an instruction from the Department, interfered with his performance of this work.

I have now to inclose his detailed report upon the subject. With its aid the Department can see what the proposed legislation aims at, and will be able to comprehend such laws as may be enacted touching the subject, after the railway bill is out of the way.

* * * * * * *

I have, &c.,

J. C. B. DAVIS.

(Inclosure.)

LEGATION OF THE UNITED STATES,
Berlin, April 28, 1876.

SIR: Pursuant to your instructions to examine a proposed law concerning the evangelical church constitution in the eight older provinces of the Prussian monarchy, a translation of which was heretofore transmitted to the Department of State with your No. 291, and to report upon its bearings and present status before the Prussian house

of deputies, I have the honor to report as follows, submitting with my report summaries in translation of the proceedings in the house and of newspaper comments thereon, together with certain printed laws and papers either bearing upon or referred to in the proposed law, and hereinafter more particularly designated in a list of accompaniments.

Stated in general terms, the ends sought by the government in the proposed law appear to be to give, in so far as may be necessary, the sanction of state legislation to the general synodal regulation of the 26th of January, 1876, which was designed to supply a supposed need, in affording to the church, through the instrumentality of a grand representative body clothed with authority and dignity, and meeting at stated periods, unity and independence in the administration of its affairs in a degree which it had not yet enjoyed.

Such organization, it is claimed, is especially needed for the better representation of the church communities in external matters, such as relate to property-rights, to the administration of church property, to the right of taxation by the church, by which is meant the right to require communities and churches to raise the means necessary for church purposes, and particularly such as are needed to defray the expenses of the administrative bodies.

State legislation, it is suggested, is needed to give sanction to provisions contained in the general synodal regulation relating to these and other kindred subjects, and also to repeal such existing state laws or regulations based on recognition by the state as are opposed to the new church constitution, it being stated in this connection, however, that such provisions as are without closer interest for the state should be left to the untrammeled determination of the organs of the church, especially those provisions which concern the manner of constituting its representative bodies in so far as purely internal matters of the church are placed under their control.

The views of the government looking in the above-indicated direction find expression in the first eighteen articles of the proposed law.

Articles 19 to 26 (the 27th and last article confining itself to the repeal of such laws as oppose or contradict the proposed law) occupy themselves with the following questions:

The government holds that a realization of the desired independence of the church in the administration of its affairs cannot be achieved until the right of surveillance on the part of the state is regulated anew and defined with precision, and argues that such course having been already pursued with reference to the catholic church communities by the law of June 20, 1875, similar measures should now be adopted with reference to the evangelical church, which would otherwise remain subject to a different law of surveillance, and one not in accord with the independence to which it is entitled.

Another question regarded by the government as of moment in connection with the bestowal of independence upon the evangelical church is one in which an advance has already been made by a former regulation, the church-community and synodal regulation of September 10, 1873, (an accompaniment hereto,) the question of abolishing the separation of the internal and external affairs of the church as regards the organs administering them, and of uniting the administration of both classes in the organs of the church. This line of action should also be pursued with reference to the higher spheres of the organization, and the jurisdiction of church organs extended to so-called "externa," in so far as the interests of the state permit, the jurisdiction of the state authorities being correspondingly contracted and their retained rights precisely defined.

After a lengthy debate in the house of deputies, the proposed law was referred to a committee consisting of 21 members, representing the various views entertained and advocated with respect to its merits as a whole, or to the merits of such of its provisions as had given rise to conflict of opinion. It has now been reported back to the house, and is appended hereto, in its amended form, in a translation, in which the additions to and alterations of the original draught which the committee have suggested are, where feasible, indicated by underscoring in order to facilitate comparison.

As indicated by the debate in the house preceding reference to the committee, and by the action of the committee itself, the following articles or provisions of articles of the bill are those on which interest chiefly hinged:

Article 8 makes special provisions as to the rights that may be exercised by the united circuit synods of the capital city, Berlin.

The question here is of the establishment of a common synodal treasury and the levying of a general assessment for church needs within the individual communities of the entire synodal district. In consideration of the peculiar conditions of the city of Berlin, it was thought proper to resort to an extraordinary measure. A population of 844,350 inhabitants of the Evangelical confession, the city rapidly increasing in population, its limits rapidly extending, the vast number of changes of domicile, amounting at certain periods of the year, it is asserted, to an emigration of the inhabitants from one part of the city to another—all this appeared to render the local keeping together of a church community and the normal raising of the funds necessary to meet

the wants of the individual community a matter of extreme difficulty. This article comes from the committee with restrictions as to the nature of the general assessments allowable, and as to the purposes for which the fund so derived may be used. A supplementary article (Article 8 *a*) is also reported, which provides that at other places a similar course may be pursued, under certain circumstances, with reference to two or more parishes of the same place.

Article 12.—In this article the object of the government seems to have been to afford guarantees against conflicts as to the boundary-line separating the authority of the state from that of the church, and against a transcending of the limits of its competency by the latter; firstly, by the express recognition of the superiority of the state laws over those of the church; secondly, by making it the duty of the minister for ecclesiastical affairs to examine church laws in advance of their submission to the King for approval, in order to determine whether the state has any objection to raise. As reported by the committee, the phraseology of the provision declaring the superiority of the state over the church law appears to be more comprehensively and vigorously expressed than before, reading now: "State laws take precedence over those of the church." As regards a second guarantee, that concerning a previous examination by the "minister for ecclesiastical affairs," the committee reports that such examination be by "the responsible state ministry," it having been contended that another minister than the one named in the government bill might sometimes be the responsible one. The committee further reports that the fact that such examination has resulted in no objection being found should be stated in the formula of promulgation. The committee also adds a clause declaring that a contradiction of a state law by a church law or rule shall, upon motion of the state ministry, be removed by royal decree.

Article 14 *a*, containing important restrictions upon the preceding article, is the result of a lengthy debate in the committee, in which it was contended that article 14 did not sufficiently control the measure of taxation by the church. A guarantee was wanted against the too great extension, in consequence of the varied wishes and needs of the church and of its *personnel*, of the newly-conceded right of taxation. A maximum rate, it was maintained, should be established, to be determined by the amount of personal (class and income) taxes paid by the Evangelical population.

This article contains a special measure with regard to the city of Berlin, providing that no provincial assessments shall be there levied. It was successfully contended that its united synods had already the importance of a separate province; the intention to constitute it such had been freely uttered, and it would therefore be unreasonable to compel it to share the burdens of the provincial synod of Brandenburg, in which it has no interest.

Article 15, which provides in the main for the imposition upon the better-endowed churches and benefices of a portion of the burdens of the poorer, was adopted by the committee, although the objection was raised that such legislation was unfair, after the insertion of several modifications, the principal of which were: one declaring that the rights acquired by owners of benefices antecedent to this law should not be affected thereby; the other, that the consent necessary to this measure should be required of the state ministry, instead of the minister for ecclesiastical affairs.

With article 19 begin those articles of the bill which occupy themselves with separating and distinguishing between the functions, hitherto mingled, of the state power and of the church power. It provides for the transfer of the administration and conduct of the affairs of the church from the minister of public worship and the governments to the upper church council and the consistories, which gave rise to much discussion in the committee, resulting, however, in the adoption of the article with some minor modifications, and the addition of a clause declaring that any change in the colleaguate constitution of the above-mentioned organs should require the sanction of a state law. This clause was added to meet the objection that future church legislation might utterly change the present constitution of these organs.

Article 20, declaring the power of the state authorities in church affairs concerning the military and public institutions as unaffected by this act is left unaltered in the committee's report.

Article 21.—The committee recognizes the functions herein reserved to the state authority as in accord with past legislation and as proper to be retained in the interest of the state. It being, however, considered very important that the co-operation of the state authorities, especially the countersigning by the minister, should be retained to the extent heretofore exercised in the filling of church offices, a clause providing therefor was added. Another was added assuring to the state co-operation in the introduction and abolishment of general church holidays.

Article 21 *a*, declaring that the administration of the Evangelic theological faculties of the universities of the country, especially the appointment of professors, belongs exclusively to the state authorities, was added by the committee, upon the suggestion of the experiences of the last generation with regard to church interference in the appointment of theological faculties.

Article 22 is left unchanged, the committee recognizing that the cases therein enumerated, in which the right of confirmation is reserved to the state authorities, are already contained in the laws of 1874 and 1875, concerning the administration of the property of the Evangelical and of the Catholic Church, and approving the endeavor manifested to legislate, as far as the nature of the subject permits, as in the law for the administration of the Catholic Church property.

The remaining brief articles, with the exception of article 25, remain unchanged. The reservation to the state in this article of the right of inspection and revision of church accounts the committee regards as proper, and as in accordance with the provisions made for the administration of the property of the Catholic Church, but deems it proper to give the state an additional guarantee, by adding a clause declaring that this law makes no change as regards the responsible administration and employment of state funds for designated church purposes.

The bill as reported by the committee will probably be taken up in the house at an early day.

Respectfully submitting the foregoing, I have the honor to be, sir, your obedient servant,

CHAPMAN COLEMAN,
Second Secretary of Legation.

Hon. J. C. B. DAVIS,
Envoy Extraordinary, &c.

Accompaniment 3 to report on Evangelical Church bill.

[Changes from the original draft are indicated, where feasible, by *underscoring*.]

Bill as reported by the committee.

A law proposed for the organization of the church (Evangelical) in the eight older provinces of the monarchy.

We, William, by the grace of God King of Prussia, &c., ordain, with the concurrence of both houses of the Landtag of the monarchy, for the provinces of Prussia, Brandenburg, Pomerania, Posen, Silesia, Saxony, Westphalia, and for the Rhenish Province, the following:

ARTICLE 1.

The synod organs, *constituted under these provisions* and provided for by the "regulations of church communities and synods," dated 10th September, 1873, (Laws of 1874, p. 151,) and by the regulations of general synods, dated 20th January, 1876, and attached hereto, shall exercise the following rights, according to the provisions of this law.

ARTICLE 2.

Unchanged, except that subdivision 4 reads:

4. The statutory orders, (§ 53, No. 8.) The resolutions necessary for the execution of these rights shall be passed as provided by § 52, clauses 3, 4.

ARTICLE 3.

Read, instead of "two weeks," *twenty-one days*.

ARTICLE 4.

Read, instead of "proposed provision," *proposed provisions*.

ARTICLE 5.

The direction of the circuit synod exercises the right to make preliminary decisions in cases of haste *in accordance with* the cosupervision assigned to the synod by § 53, Nos. 5 and 6. (§ 55, No. 6.)

ARTICLE 6.

The rights which belong to the circuit synod and its direction, according to articles 2 to 5, are transferred to the united circuit synods, and their directions for the common affairs *in the case* provided for by § 57, clause 1, *when the union takes place with the consent of the individual circuit synods.*

ARTICLE 7.

Unchanged.

ARTICLE 8.

Reads: In the regulation for the united circuit synods of the capital city, Berlin, the right may be given them—

1. To make determination concerning changing, abolishing, or introducing general fees for all the communities.

2. To order general assessments for the following purposes:

a. To make compensation for surplice-fees that are to be abolished in so far as the church treasuries of the communities are not able to meet the deficiency.

b. To grant assistance to poorer parishes to provide for pressing church needs.

If the assessment for this last purpose exceeds three per cent. of the amount of personal taxes (class and income tax) due from the members of the community, permission by state law must be obtained.

The assessments must be levied uniformly and simultaneously in all the communities; and the provisions of § 31, No. 6, of the regulation for church communities and synods, of 10th September, 1873, shall be the basis of the repartition.

Article 3, clauses 3, 4, of the law of 25th May, 1874, shall apply to the resolution concerning such assessments.

It is forbidden to borrow money.

3. To establish a synodal treasury for the reception and use of the assessments levied.

For the bestowal upon the shortly to be established provincial synod, Berlin, of the rights conceded to the provincial synods in this law, a state law shall be necessary.

ARTICLE 8-a.

In other places the purposes designated in the above provision can be declared as being general affairs in the sense of article 4 of the law of 25th May, 1874, upon the joint motion of the representation of all or of several parishes of the same place.

ARTICLES 9, 10, AND 11.

Remain unchanged.

ARTICLE 12.

The state laws take precedence over the church laws.

The King shall not be applied to for his sanction of a law made by a provincial synod, or by the general synod, until it shall have been established by a declaration on the part of the responsible state ministry that the state has no objection to make to the law.

That such is the case is to be stated in the formula of announcement.

Should a church law or a church regulation contradict a state law, the contradiction is to be removed by royal decree upon the motion of the state ministry.

The provisions of this article obtain also within the scope of the church regulation of March 5, 1835, for the province of Westphalia and the Rhine province.

ARTICLE 13.

Unchanged.

ARTICLE 14.

Unchanged, except that the following is to be added to the first paragraph:

"The consent is to be stated in the formula of announcement."

ARTICLE 14-a.

The entire sum of the assessments determined upon under article 9, No. 3, and 13, No. 2—leaving synodal expenses out of consideration—shall not, for the purposes of the provincial and land church, exceed four per cent. of the entire amount of the class and income-tax of the population belonging to the Evangelical National Church.

How much of the assessments permissible within these limits may be levied by the provincial synods, and how much by the general synod, shall be determined by a national church law.

Church laws which exceed this rate require the confirmation of a state law. The same is the case when church laws direct the imposition of a burden upon communities for community purposes or produce such a result.

Upon the city synod, Berlin, no provisional assessments shall be levied.

ARTICLE 15.

Church laws, by which the receipts from the church property or the benefices are applied as contributions for church purposes, (§ 15 of the regulation for the general synod, dated 20th January, 1876,) *shall not injure the owners of benefices in such rights as they may have acquired before the publication of this law*, must direct the payment in the several classes of church treasuries or benefices at the same rate, and require the approval of the ministry of state.

The approval is to be mentioned in the formula of publication.

The approval shall not be refused if the law has been regularly passed and the contents are in harmony with § 15 of the regulation for the general synod of 20th January 1876.

Church communities which prove that they cannot dispense with the full surpluses of their church treasury on account of needs to be met in the next following years are to be relieved from this contributory obligation for the time being.

The contributions may be collected by the way of administrative execution.

Exception may be taken to the execution within *twenty-one days* from the receipt of the demand of payment on the ground that the assessment is not in accordance with law, or that the calculation of the amount is incorrect, or that the church treasury is discharged from the obligation to contribute by subdivision 2. The state tribunal passes upon the exception.

ARTICLE 16.

Unchanged, except that the concluding words "and 3" are stricken out.

ARTICLE 17.

Unchanged, except that the words are to be added to the first paragraph: "*The authority to borrow money is not included herein.*"

ARTICLE 18.

Unchanged.

ARTICLE 19.

The administration of the affairs of the Evangelical National Church, (Landes Kirche,) in so far as the same has heretofore been exercised by the minister for ecclesiastical affairs *and by the government*, is transferred to the evangelical upper-church council *and to the consistories as organs of the church government.*

The time and the execution of the transfer is reserved for royal ordinance.

Changes in the "colleagual" constitution of these organs need approval by a state law. (Regulations for the general synod of January 20, 1876, § 7, No. 5.)

ARTICLE 20.

Unchanged.

ARTICLE 21.

Unchanged down to and including subdivision 6, then as follows: (7.) Co-operation in filling church disciplinary offices, or in directing an administration of them by a commission. This co-operation is to be continued within the same bounds as heretofore. It is particularly required that the appointment of the members of the church disciplinary tribunals shall be countersigned by the ministry of spiritual affairs; (8.) Co-operation in introducing or abolishing general church holidays.—(§ 7, No. 4.)

ARTICLE 21.

The administration of the evangelical theological faculties of the universities, and particularly the appointment of professors, devolves exclusively upon the state tribunals.

ARTICLES 22, 23, and 24.

Unchanged.

ARTICLE 25.

Unchanged, except that the following paragraph is added:

As regards the responsible administration and employment of the state funds for the particular church purposes, nothing is changed by this law.

ARTICLES 26 and 27.

Unchanged.

No. 82.

Mr. Cadwalader to Mr. Davis.

No. 237.] DEPARTMENT OF STATE,
Washington, May 31, 1876.

SIR: Referring to your No. 358, of the 1st instant, relative to the National Evangelical Church of Germany, I have to state that the re-

port of Mr. Chapman Coleman respecting the laws regulating that organization and the proposed changes therein, which accompanied your dispatch, exhibits an intelligent investigation which is deserving of commendation.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 83.

Mr. Davis to Mr. Fish.

No. 394.] LEGATION OF THE UNITED STATES,
Berlin, June 12, 1876. (Received June 29.)

SIR: Referring to my No. 358, I have the honor to inclose a further report from Mr. Coleman respecting the legislation for the government of the Lutheran Church in this country. I beg to commend to your attention the zealous and thorough manner in which Mr. Coleman has worked up his instructions on this subject. At the time when he was requested to prepare these reports the church question had a prominence which it subsequently lost, owing to the presentation of laws more widely affecting imperial interests.

* * * * * * *

I have, &c.,

J. C. BANCROFT DAVIS.

[Inclosure.]

LEGATION OF THE UNITED STATES,
Berlin, June 9, 1876.

SIR: I have the honor, referring to my report of the 28th of April last upon a proposed law concerning the Evangelical Church constitution, to now submit a supplementary report thereon, together with a number of newspaper comments and reports of proceedings, accompanied by summaries of, and extracts from, them in translation.

In the former report above referred to the changes suggested by the commission of the House of Deputies to the bill, as submitted by the government, were pointed out and an effort made to explain their significance and importance.

The bill as reported back to the house by its committee was, after a few slight changes had been made, approved and transmitted to the House of Peers for its action.

The amendments to the bill by this house were unimportant, and there seemed to be no issue raised between the two houses which involved a question of principle. As these amendments affect only articles of the bill which were commented upon at length in the former report, I shall not discuss them here, but confine myself to pointing them out in an accompaniment hereto.

Returned from the House of Peers with these slight alterations, the bill has been approved by the House of Deputies, and now awaits but the signature of the King, which will not be withheld, to become a law, and substantially realize the object of the government in submitting it.

The full text of the bill as now passed by the two houses is also appended.

I have the honor to be, sir, your obedient servant,

CHAPMAN COLEMAN,
Second Secretary of Legation.

Hon. J. C. B. DAVIS,
Envoy Extraordinary, &c.

[Inclosure 1 in inclosure in No. 394.—Translation.]

CHURCH BILL.

Amendments by the House of Peers to church bill, as reported back by the House of Deputies by its commission.

ARTICLE 8.—Under letter *a*, of figure 2, the qualification is stricken out: "In so far as the church treasuries of the communities are not able to meet the deficiency." Under the second subdivision of letter *b*, the words "of the state ministry" are substituted for "by state law." The concluding subdivision under this letter, forbidding the borrowing of money, is stricken out.

ARTICLE 9 (designated by commission 8 *a*) is amended so as to read: "In other places, which comprise several parishes not united under a common pastoral office, the purposes declared in the foregoing article can, upon the motion of all, or of the majority of the parishes, be declared by the consistory as being general affairs in the sense of article 4 of the law of May 25, 1874. Should, however, the representation of a single parish object, this can only take place with the approval of the provincial synod."

ARTICLE 13 (12 of the house commission) restores the article as submitted by the government, and as heretofore enclosed with the minister's No. 291.

ARTICLE 21 *a*, of the house commission, giving the state authorities the sole control over appointments to the professorships of the universities of the country, is stricken out.

[Inclosure 2 in inclosure in No. 394.—Translation.]

Evangelical church bill.

A law proposed for the organization of the church (Evangelical) in the eight older provinces of the monarchy.

We, William, by the grace of God King of Prussia, &c., ordain, with the concurrence of both houses of the Landtag of the monarchy, for the provinces of Prussia, Brandenburg, Pomerania, Posen, Silesia, Saxony, Westphalia, and for the Rhenish province, the following:

ARTICLE 1.

The synod-organs, *constituted under these provisions*, and provided for by the "regulation for parishes and synods," dated 10th September, 1873, (Laws of 1874, p. 151,) and by the regulation for general synods, dated 20th January, 1876, and attached hereto, shall exercise the following rights according to the provisions of this law.

ARTICLE 2.

The circuit synod shall exercise the rights assigned to it in the regulation for parishes and synods, dated 10th September, 1873, concerning—

1. The common arrangements and institutions for the Christian works of love existing in the parishes and in the circuit synods. (§ 53, No. 5.)
2. The treasury and financial matters of the several parishes and of the ecclesiastical foundations within the district. (§ 53, No. 6.)
3. The treasury of the circuit synod, the accountant of the circuit synod, the budget of the treasury, and the apportionment of the contributions of the church treasuries and of the parishes. (§ 53, No. 7.)
4. The statutory ordinances. (§ 53, No. 8.)

The resolutions necessary for the exercise of these rights shall be passed as provided by § 52, clauses 3, 4.

ARTICLE 3.

The parishes shall have the right to complain of the resolutions of the circuit synod for the apportionment of the necessary contributions to the treasury of the circuit synod within *twenty-one days* from the delivery of the resolution.

The complaints are decided by the state officials.

ARTICLE 4.

The establishment of statutory regulations within the business jurisdiction assigned to the circuit synod (§ 53, No. 8; § 65, No. 5) requires the prior recognition by the state officials that the proposed provisions are not contrary to the law of 25th May, 1874, and this law.

ARTICLE 5.

The direction of the circuit synod exercises the right to make preliminary decisions in cases of haste *in accordance with* the cosupervision assigned to the synod by § 53, Nos. 5 and 6. (§ 55, No. 6.)

ARTICLE 6.

The rights which belong to the circuit synod and its direction, according to articles 2 to 5, are transferred to the united circuit synods, and their directions for the common affairs in the *case* provided for by § 57, clause 1, *when the union takes place with the consent of the individual circuit synod.*

ARTICLE 7.

If the jurisdiction of a circuit synod or of a union of circuit synods, formed according to § 57, clause 1, or of their direction according to clause 2 of this paragraph, is to be extended with reference to peculiar arrangements or wants of a circuit, a regulation shall be issued in accordance with the provisions of the clause mentioned. Article 4 of this law is applicable to the establishment of the same.

ARTICLE 8.

In the regulation for the united circuit synods of the capital city, Berlin, the right may be given them—

1. To make determination concerning changing, abolishing, or introducing general fees for all parishes.

2. To order general assessments for the following purposes:

a. To make compensation for surplice-fees that are to be abolished.

b. To grant assistance to poorer parishes to provide for pressing church needs.

If the assessment for this last purpose exceeds three per cent. of the amount of personal taxes (class and income-tax) due from the members of the parishes, permi[illegible]on by the state ministry must be obtained.

The assessments must be levied uniformly and simultaneously in all the parishes; and the provision of § 31, No. 6, of the regulation for parishes and synods, of 10th September, 1873, shall be the basis of the apportionment.

Article 3, clauses 3, 4, of the law of the 25th May, 1874, shall apply to the resolutions concerning such assessments.

3. To establish a synod-treasury for the reception and use of the assessments levied.

For the bestowal upon the shortly to be established provincial synod of Berlin, of the rights conceded to the provincial synods in this law, a state law shall be necessary.

ARTICLE 9.

In other places, which contain several parishes not united under one pastor, the purposes designated in the above provision can be declared as being general affairs, in the sense of article 4 of the law of May 25, 1874, upon the joint motion of the representation of all, or of a majority, of the parishes of the same place. In case of the objection of the representative of one only of the parishes, this can take place only by consent of the provincial synod.

ARTICLE 10.

The provincial synod shall exercise the rights assigned to it in the regulation for parishes and synods, dated 10th September, 1873, concerning—

1. The statutory provisions passed by the circuit synods. (§ 65, No. 5.)

2. The synod widow and orphan funds, the provincial funds and foundations, the treasury of the circuit synod, and of the provincial synod. (§ 65, No. 6.)

3. New church expenses for provincial purposes. (§ 65, No. 7.)

4. The application of the amount of the collection to be made in church and in dwellings for the benefit of the needy communities of the district, (§ 65, No. 8,) before every assembly of the provincial synod, or to be annually made in the province. The right to order such a collection in dwellings does not require the special authorization of an official of the state; but the upper president must first be notified of the time of such collection.

The resolution necessary for the exercise of these rights shall be passed according to the provisions of § 70, clauses 1, 2.

ARTICLE 11.

The new church expenses for provincial purposes, (§ 65, No. 7 of the regulation for parishes and synods,) 10th September, 1873, sanctioned by the provincial synods, are distributed among the treasuries of the circuit synods in accordance with the rules established in §§ 72, 73.

The resolution approving the expenses and the apportionment require the approval of the state official. This approval is particularly to be refused if question arises concerning the regularity of the resolution, the appropriateness of the proportion of distribution, or the ability of the district to pay.

ARTICLE 12.

The provisions of §§ 71-74 of the regulation for parishes and synods, dated 10th September, 1873, concerning the expenses of the circuit and provisional synods, shall be applied as soon as the new synod-organs shall have been established in accordance with §§ 43-46 of the regulation for the general synod, dated 20th January, 1876.

ARTICLE 13.

Church laws or ordinances, whether passed for the national church or for particular provinces or districts, shall be valid only when not at variance with a state law.

The King shall not be applied to for his sanction of a law made by a provincial synod, or by the general synod, until it shall have been established by a declaration on the part of the state ministry that the state has no objection to make to the law. That such is the case is to be stated in the formula of announcement.

Clause 4, of § 6 of the regulation for the general synod, dated 20th January, 1876, shall also apply to provincial church laws.

The provisions of this article obtain also within the jurisdiction of the church regulation of March 5, 1835, for the province of Westphalia and the Rhine province.

ARTICLE 14.

The general synod exercises the rights assigned it in the regulation for the general synod, dated 20th January, 1876, concerning:

1. The church-fund placed under the administration and disposition of the evangelical upper church council, (*Oberkirchenrath.*) (§§ 11, 12.)

2. New expenses for purposes of the state church.—(§ 14.)

3. Applying the receipts from the property of the church and from the benefices for contributions for church purposes. (§ 15.)

The resolutions necessary for the exercise of these rights shall be passed in accordance with § 32, clauses 2, 4.

ARTICLE 15.

Church laws by which new expenses for purposes of the church of the state shall be approved (§ 14 of the regulation for the general synod, dated 20th January, 1876,) and the final agreement between the general synod and the church government concerning the distribution of the assessment among the provinces, (§ 14, clause 2 of the last-mentioned law,) require the approval of the minister of state before being submitted to the King for sanction. The consent is to be stated in the formula of announcement.

The royal ordinance concerning the provisional establishment of the proposition of distribution (§ 14, clause 2) must be countersigned by the minister of state.

The subdistribution in the provinces of Prussia, Brandenburg, Pomerania, Posen, Silesia, and Saxony shall be made according to article 11. The subdistribution in the province of Westphalia and the Rhine province shall be made according to § 135 of the regulation for church matters, dated 5th March, 1835. The list for the distribution among the circuit synods shall be approved in accordance with article 11, clause 2, and that for the distribution among the parishes in accordance with article 3.

ARTICLE 16.

The entire sum of the assessments determined upon under article 10, No. 3, and 14, No. 2, leaving synodal expenses out of consideration, shall not for the purposes of the provincial and land church exceed 4 per cent. of the entire amount of the class and income tax of the population belonging to the Evangelical National Church.

How much of the assessments permissible within these limits may be levied by the provincial synods, and how much by the general synod, shall be determined by a national church law.

Church laws which exceed this rate require the confirmation of a state law. The same is the case when church laws direct the imposition of a burden upon par for par purposes, or produce such a result.

ARTICLE 17.

Church laws by which the receipts from the church property or from the benefices are applied as contributions for church purposes, (§ 15 of the regulation for the general synod, dated 20th January, 1876,) shall not injure the owners of benefices in such rights as they may have acquired before the passage of this law, must direct the payment in the several classes of church treasuries or benefices at the same rate, and require the approval of the ministry of state before they are submitted to the King for his sanction. *The approval is to be mentioned in the formula of publication.*

The approval shall not be refused if the law has been regularly passed and the contents of the same are in harmony with § 15 of the regulation for the general synod, dated 20th January, 1876, and with this article. Church communities which prove *that they cannot dispense with the full surpluses of their church-treasury on account of needs to be met in the next following years, are to be relieved from the contributory obligation for the time being.*

The contributions may be collected by the way of administrative execution.

Exception may be taken to the execution within *twenty-one days* from the receipt of the demand of payment, on the ground that the assessment is not in accordance with law, or that the calculation of the amount is incorrect, or that the church treasury is discharged from the obligation to contribute by clause 3.

The state tribunal passes upon the exception.

ARTICLE 18.

The direction of the general synod exercises the rights assigned to it in §§ 11, 12, of the regulation for the general synod, dated 20th January, 1876, and has the administration of the treasury of the general synod. (§ 34, No. 6.)

The resolutions necessary for the exercise of these rights shall be passed in accordance with § 35, clause 2.

ARTICLE 19.

The Evangelical Church of the state shall be represented in its property affairs by the evangelical upper church council, (Oberkirchenrath,) in association with the direction of the general synod, (§ 36, No. 4, of the regulation of the general synod, dated 20th January, 1876.) *The authority to borrow money is not included therein.*

Declarations in writing which legally bind the Evangelical Church of the state towards a third party must show in their execution that the direction of the general synod approved the resolution, and also require the signature of the president of the Evangelical Upper-Church Council or his representative, and the official seal.

ARTICLE 20.

§§ 38 to 40 of the regulation for the general synod, dated 20 January, 1876, are applicable as regards the expenses of the general synod, its directors, committees, and commissioners, and also for those of the synod council.

ARTICLE 21.

The administration of the affairs of the Evangelical National Church, (Landeskirche,) in so far as the same has heretofore been exercised by the minister for ecclesiastical affairs, *and by the governments*, is transferred to the Evangelical Upper-Church Council, and *to the consistories as organs of the church government.*

The time and the execution of the transfer is reserved for royal ordinance. *Changes in the "colleagual" constitution of these organs need approval by a state law.* (*Regulation for the general synod, dated January* 20, 1876, § 7, *No.* 5.)

ARTICLE 22.

Nothing is changed by this law in the jurisdiction of the officials with reference to the rights of presentation, and the ecclesiastical affairs of the military, and of the public institutions.

ARTICLE 23.

To the state officials remain—

1. The order and execution of police regulations necessary to uphold the outer order of the church.
2. The regulation of contested building affairs for church, parsonage, and sexton's buildings, and the provisional execution of the decisions in these cases.
3. Collection of church taxes.
4. The keeping of the church books, in so far as these are records of the civil status.
5. The issue of certificates concerning the facts which entitle to dispensation from costs.
6. Co-operation in changing existing parishes or forming new ones.
7. Co-operation in filling church disciplinary offices, or in directing an administration of them by a commission. This co-operation is to be continued within the same bounds as heretofore. It is particularly required that the appointment of the members of the church disciplinary tribunals shall be countersigned by the minister of ecclesiastical affairs.

ARTICLE 24.

The resolutions of the organs of the church require, to become valid, the approval of the supervisory officials of the state in the following cases:

1. The purchase, sale, or mortgaging of real estate.
2. The sale of objects having historical, scientific, or art value.
3. Loans, in so far as they do not serve a temporary purpose only and can be repaid from the receipts of the same period.
4. The introduction and change of the list of costs.
5. The erection of new buildings, to be used as churches or for parsons or servants of the church.
6. The establishing or changing of burial-grounds.
7. The publishing, preparing, or carrying out collections outside of the church-building, without prejudice to article 10, No. 4.
8. The use of the property of the church for other than the fixed purposes. Gifts from the treasury of the church to other parishes, or for the support of evangelical institutions, if they do not exceed in each case 2 per cent. of the total amount of the receipts of one fiscal year, and all together do not exceed 5 per cent., do not require the approval of the state officials.

ARTICLE 25.

Gratuitous grants and grants by testament or last will are subject to the law of 23d February, 1870.

ARTICLE 26.

The organs of the church do not require authorization from state officials to carry on suits at law.

ARTICLE 27.

The state official has a right to examine into the administration of the property of the church, and for this purpose demand the budgets and accounts; also to make extraordinary revisions, and to insist on correction of anything found to be contrary to law, by using for this purpose the means allowed by law.

If a church board or the representatives of a congregation refuse to place in the list of expenditures, to fix or to approve payments which are to be made from the church property, or which are incumbent upon the parishioners, the consistory and the state officials are authorized to make the entry, by common consent, in the list of expenditures, and to order such other measures as may be necessary.

If the officers of the congregation deny the illegality of the offices to which objection is made, or their own obligation to make the payments entered upon the list of expenditures by order of the consistory and the state officials, the superior administrative tribunal shall decide the case, complaint being made by the officers of the congregation

ARTICLE 28.

A royal ordinance will determine which state officials are to exercise the rights mentioned in articles 3, 5, and 8 of the law of 25th May, 1874, and in articles 3, 4, 7, 8, 11, and 17, clause 6, and articles 23, 24, and 27 of this law.

ARTICLE 29.

All the provisions contrary to this law, to the regulation for parishes and synods, dated 10th September, 1873, sections 2–5, and to the annexed regulation for the general synod, dated 20th January, 1876, be they contained in general laws for the land, provincial or local laws or orders, or be they based on observance or custom, are hereby abolished.

Officially, &c., authenticated.

President of the upper house,

V. BERNUTH,
Acting.

No. 84.

Mr. Nicholas Fish to Mr. Fish.

No. 478.] LEGATION OF THE UNITED STATES,
Berlin, September 16, 1876. (Received October 5.)

SIR: The law of which Mr. Davis transmitted the draft in his No. 105 became a law with so few changes from the bill as reported by the

commission, that it was not considered worth while to furnish the Department with the text of the law. I should not transmit it now, were it not that it has been followed by a law concerning the right of the state's supervision in the administration of property in the Catholic dioceses, which will go into effect on the 1st October.

In view of this later law I have the honor to inclose the text of the law concerning the management of property in Catholic parishes, with the election regulations therein mentioned, together with a translation of the same. I also annex a schedule of the alterations made in the draft of the law as published in Foreign Relations for 1875, pp. 543, *et seq.*, upon its final enactment.

I have also the honor to inclose a copy and translation of the law of June 7, 1876, concerning the state's supervision in the administration of property in Catholic dioceses.

I have, &c.

NICHOLAS FISH.

[Inclosure 1 in No. 478.—Translation.]

No. 8302. *Law concerning the management of property in Catholic parishes, of June 20, 1875*

We, William, by the grace of God King of Prussia, &c., ordain, with the consent of both houses of the Landtag, for the entire extent of the monarchy, as follows:

§ 1. In every Catholic parish matters appertaining to church property are to be cared for by a vestry and representatives of the congregation, in accordance with this law.

§ 2. The provisions of section 1 also apply to mission parishes, as well as to such other congregations, branch churches, chapels, &c., where there are special church lands, or in which the individual members of the congregation are under obligations to contribute to the needs of the church.

§ 3. All church property is to be held under this law:

1. Property destined for clerical needs, inclusive of church and parsonage building-funds, of lands to provide the salaries of the clergy and other church servants, and of anniversaries.

2. Church lands for any other church purpose, or for charitable or school purposes.

3. The proceeds of subscriptions, collections, &c., undertaken by church functionaries for church, charitable, or school purposes, or by other persons for church purposes, both in and out of church buildings.

4. Institutions within the community for charitable or school purposes which are under the management of church functionaries.

§ 4. The rights of the state or of civil communities to places of burial, or to such lands as are destined for church purposes, are not affected by this law.

Under church property, within the meaning of this law, property is not understood, which, though destined for church purposes, is yet under the permanent management of the state or of civil communities.

I.—*Church-vestry.*

§ 5. The church-vestry consists of:

1. In parishes, of the pastor; in branch churches, chapels, and other similar congregations, which have priests of their own, of him whose appointment is oldest.

2. Of several church-heads (or vestrymen) who have been chosen by the congregation.

3. In the case of section 39, of the person therein designated as entitled, or of the church-head (vestryman) appointed by him.

§ 6. The number of church-heads (vestrymen) to be chosen in each community is, in congregations of 500 or fewer members, 4; of from 500 to 2,000 members, 6; from 2,000 to 5,000, 8; of more than 5,000, 10.

A change in the number can be effected by a resolution of the representatives of the congregation; the number shall, however, not exceed 12 nor be less than 4. In consideration of the number of members, or of the peculiar circumstances of a congregation, the number may, with the consent of the upper president, be reduced to 2.

§ 7. The office of church-head (vestryman) is an office of honor, (honorary.) For extraordinary services a proper compensation may be allowed by the representatives of the congregation, on motion of the church-head, (vestryman.)

§ 8. The vestry manages the church property.

It is the representative of the properties under its management, and of the congregation in matters relating to such properties.

The rights of those entitled for the time being to the lands destined for the payment of salaries to the clergy and other church-servants are not hereby affected.

§ 9. The members of the church-vestry are held to exercise that care which is practiced by a good head of a family.

§ 10. The control of funds and the book-keeping is to be intrusted to a church-head (vestryman) chosen by the vestry.

By resolution of the vestry an accountant not belonging to it may be appointed. Such accountant is held to be a church-servant within the meaning of the law of May 12, 1873.

§ 11. The vestry shall make out and continue an inventory of the church property under its management.

It must make an estimate in advance of the year's revenues and expenditures, and render each year a full report of the condition of the church property to the representatives of the congregation. At the conclusion of each year the vestry shall examine the accounts.

§ 12. The vestry elects from its members, described in section 5, Nos. 2 and 3, upon the entrance of the new church-heads, (vestrymen,) a president and a substitute, both for three years.

§ 13. The vestry convenes, upon the summons of the president, whenever the transaction of business requires. By resolution, regular days of meeting may be appointed.

§ 14. The vestry is to be convened when it is demanded—

1. By the diocesan authorities.
2. By the landrath; in the city districts by the mayor.
3. By one-half of the members of the vestry.
4. By a resolution of the representatives of the congregation.

In the two last cases where a purpose coming within the province of the vestry is given.

§ 15. If the president does not respond to this call, or if there be no president, the call may be made by the diocesan authority, as well as by the officials named in section 14, No. 2. In these cases, the authority calling appoints the president from among the members of the vestry described in section 5, Nos. 2 and 3.

§ 16. All the members of the vestry are to be invited to the meetings. This invitation is, in all cases where the resolution requires the assent of the representatives of the congregation, to be made in writing, the purpose of the call being stated, and to be communicated at least one day before the session.

§ 17. Resolutions are carried by a majority of those present. If the votes are even, the president decides; in cases of choice, the decision is by lot. To be valid, resolutions must have been passed upon by at least half of the members.

Members having an interest in the subject-matter voted upon must abstain from voting.

In cases of a call not made as prescribed, resolutions can only be passed when the entire vestry is present, and no objection is raised.

§ 18. The resolutions are to be entered in a journal, with the date and the names of the members present. The entries must be signed by the president and at least one other member of the vestry.

§ 19. Every written declaration of the will of the vestry, affecting the property it controls and the congregation, requires to be subscribed by the president and by two other members of the vestry, and must, in addition, bear the official seal. This shall constitute a guarantee to third parties of the formality of the resolution, so that proofs of compliance with the several requisites, particularly of the concurrence of the representatives of the congregation, where such is necessary, shall not be required.

II.—*Representatives of the congregation.*

§ 20. The number of the representatives of the congregation shall be three times as large as that of the chosen church-heads. Reference being had to the number of souls, or the particular relations of a community, this number may be diminished with the consent of the upper president.

§ 21. The resolutions of the vestry require the assent of the representatives of the congregation in the following cases:

1. Upon the purchase, alienation, or mortgaging of real estate, the renting or leasing thereof for longer terms than ten years, and the renting or leasing of lands set apart for the use or enjoyment of priests and other church-servants beyond the period of service of the occupant for the time being.
2. Upon the alienation of objects which have a historical, scientific, or art value.
3. Upon extraordinary use of the property, involving the integrity of the substance itself, as well as upon the calling and drawing in of capital, provided no re-investment upon interest ensues.

4. Upon contracting loans, which are not intended for mere temporary relief, and cannot be refunded out of the surplus of the current revenues beyond the expenditures of the same period of estimate.

5. Upon the institution of suits which do not relate to the recovery of current interest, or dues, or the calling in of outstanding capital, the interest of which is in arrears, and upon making compromises or agreements.

6. Upon the erection of new buildings, or considerable repairs on buildings, where the necessity for such work has not been finally decided upon by the proper authorities. Considerable repairs shall be held to be those whose estimate exceeds two hundred marks. In case of need, the community-representatives of the congregation may once for all extend the power of the vestry to contract for more costly repairs; the cost of which, however, shall not exceed one thousand marks.

7. Upon procuring the money and labor needful for church purposes, provided such are not to be accorded, according to existing laws, out of church property, or by the patron, or by some other person, upon whom it particularly devolves so to do.

8. Upon fixing the amounts to be contributed by the members of the community, and upon establishing the scale of assessment, the latter is to be fixed on the basis of the state tax or of the communal tax.

9. Upon the institution or changing of regular dues.

10. Upon allowing out of the church funds moneys for the establishment of new places for the service of the congregation, as well as for the permanent improvement of the revenues of existing places, and upon changing variable revenues of priests and other church-servants into fixed dues, or of revenues in kind into money; the last, in cases where the change does not take place in pursuance of the operation of existing state laws.

11. Upon the employment of church property for purposes not relating to the spiritual, charitable, or school needs of the congregation itself.

12. Upon establishing the budget and period of estimate.

13. Upon auditing and passing the yearly accounts.

The budget, when established, and the annual accounts, when passed, must be held open to the examination of the members of the congregation for two weeks after having been first announced according to the custom of the locality.

§ 22. The representatives of the congregation elect, upon the entrance of the new representatives, a president and a substitute, both for two years.

They convene upon the call of the president, whenever the transaction of business may require.

§§ 14 and 15 apply to the calling together of the representatives of the congregation, yet with this modification, that upon the demand of one-third of its members a call must ensue.

§ 23. The president of the vestry, or a vestryman appointed by him, (§ 5, Nos. 2 and 3,) is entitled to attend the meetings of the representatives of the congregation, and to be heard.

§ 24. To these meetings all the representatives, as well as the president of the vestry, are to be invited in writing, with a statement of the object, at least one day before the meeting.

For the rest, the provisions of §§ 17 and 18 apply as far as pertinent, yet the presence f one-third of the members is requisite to the validity of resolutions.

The representatives of the congregation have the right to order that their meetings shall be public.

Their resolutions are to be furnished to the vestry in an extract from the journal, made by the president and two representatives.

III.—*Choice of the vestrymen and of the representatives of the congregation.*

§ 25. Entitled to vote are all male independent members of the parish, of full age, who have resided therein a year; or, where there are several parishes in one place, who reside in that place, and have paid their proper church-dues. Independent are such as have a household of their own, fill a public office, or conduct a business of their own, or, as a member of a family, conduct its business.

As independent are not to be considered such as are under guardianship, or who, owing to poverty, have within the last year before the election enjoyed public relief, or have been dispensed from the payment of church-dues.

§ 26. The following are declared disqualified to vote:

1. Such as have lost civil honor.

2. Such as are awaiting trial for crime, or for such misdemeanor as may entail upon them the loss of civil honor.

3. Such as are in bankruptcy.

4. Such as are in arrears for the payment of more than one year's church-dues.

§ 27. Eligible to office are the members of the community who have completed their thirtieth year, provided they are not excluded from the right to vote by § 26.

§ 28. Priests and other church-servants are not entitled to vote or be voted for.

§ 29. No one can be at the same time a vestryman and a representative of the congregation.

§ 30. The manner of election is to be determined in conformity with the election regulations accompanying this.

§ 31. The vestrymen and the representatives of the congregation, after election or appointment, are to be invested with office, and faithful performance of their duties is to be enjoined upon them.

§ 32. The parties elected may only reject or resign the office of a vestryman or of a representative of the congregation in the following cases:

1. When they have completed their sixtieth year;
2. Have held the office for six years; or,
3. When there are other weighty grounds for dispensation, such as delicate health, frequent absence, or employments which are incompatible with the office.

The vestry decides as to the weight and correctness in fact of the excuses presented, and upon appeal, within two weeks of the decision, the diocesan authority, in conjunction with the government president. Whoever, without such grounds, refuses to accept or to continue to exercise the office, loses the right to vote in church matters, founded upon this law. Upon his solicitation it may be conferred upon him again by the vestry.

§ 33. The term of office of the elected vestrymen and of the representatives of the congregation is six years.

One-half go out every three years. Those going out are again eligible, and remain in any event in office until their successors qualify. The going out is decided by length of service; the first time by lot.

§ 34. Should the office of an elected vestryman or of a representative of the congregation become vacant at another time, the representatives of the congregation elect a substitute for the remainder of the term.

IV.—*Absence of a board of representatives of the congregation.*

§ 35. In communities in which peculiar circumstances—for instance, little property, scattered dwellings, &c.—seem to make the formation of a board of representatives of the congregation undesirable or not feasible, the diocesan authority, in conjunction with the upper president, may direct that none such be formed; that is, provided, in an assembly called together for the purpose, a majority of legal voters shall not refuse to concur in such direction.

§ 36. In the case of § 35 the functions of the representatives of the congregation under § 7 devolve upon the vestry.

Substitutes are chosen by the entire body of voters.

V.—*Discharge and dissolution.*

§ 37. The discharge of a vestryman or of a representative of the congregation ensues—

1. Upon the loss of the qualifications of a voter;
2. Upon gross failure to perform duty. In the latter case, the voting privilege may be withdrawn permanantly or temporarily. The discharge can be made by the diocesan authority, as well as by the government president, after hearing the accused and the vestry. The accused may appeal against the decision within four weeks to the court for church-affairs. The appeal may be founded upon new facts and evidence. For the rest, the provisions of §§ 13 to 23 of the law of May 12, 1873, apply where pertinent.

§ 38. If the vestry or the representatives of the congregation obstinately neglect or refuse to perform their duties, or repeatedly make matters not within their jurisdiction the subjects of discussions and resolutions, they may be dissolved by the diocesan authority, as also by the upper president, acting in concert. The necessary new elections are to be ordered at the same time as the dissolution.

VI.—*Position of patrons and others.*

§ 39. The patron who, on the ground of being such, or another who, on the ground of some particular title, has membership in the vestry, or the right to name, appoint, or present vestrymen, is henceforth entitled either to enter the vestry himself or to appoint a vestryman. Such person entering the vestry and the vestryman appointed by him must be eligible as prescribed in §§ 27 to 29.

§ 40. Besides the right of participation in the vestry established by § 39, the patron has, where he bears the burdens of such, for church-needs, the supervision of the management of the church-funds.

Copies of the resolutions of the vestry and of the representatives of the congregation

must be furnished the patron. If he does not within thirty days make a declaration concerning them, he is held to have concurred. If the patron refuses to concur, the vestry has a right of appeal to the circuit government; in the province of Hanover, to the Royal Catholic Consistory, which can reverse and supply his concurrence. Such concurrence can, however, not be so supplied when it is a question of expenditures with which the church-funds have not hitherto been charged.

In cases of documents, where it is a question of the formal establishment of the assent of the patron, and if such assent is considered as given, owing to his failing to act during the said period, the needed signature is to be supplied by the authorities named in subdivision 2.

§ 41. In those parts of the country in which the civil community is legally bound to raise the sums necessary for defraying the spiritual needs of the parish community, a copy of the budget, as well as the actual account, must be presented to the burgomaster at the same time as the public exhibition ordered in § 21.

VII.—*Provisions as to execution.*

§ 42. Direction as to the conduct of business may be furnished the vestry or the representatives of the congregation, as well by the diocesan authority as by the upper president, with mutual assent.

§ 43. When the diocesan authority, in cases in which it has to make a direction or a decision in conjunction with the state authorities, does not exercise its functions, the state authority is to command it so to do. If within thirty days this command is not obeyed, the exercise of the function devolves upon the state.

In cases in which the diocesan or the state authority, with mutual understanding, however, is called upon to make a decision, the authority summoned to give its assent must, within thirty days, declare itself. If it fails so to do, it is to be regarded as assenting.

Upon objection being raised, the upper president decides on differences of opinion between the diocesan authority and the government president; upon differences of opinion between the government president and the diocesan authority, the minister for ecclesiastical affairs.

§ 44. In the proceedings had, it is to be apparent whether an understanding was attained, whether the assent is held to have been given owing to failure to declare during the term allowed, or whether a decision has been reached upon objections having been raised.

§ 45. If a vestryman or a representative of the congregation refuses to accept or exercise his office, a new election is to be ordered. If the newly-chosen vestryman or representative also refuses to accept or exercise his office, the government president is entitled to appoint the vestryman or the representative, if it be possible, from among the eligible members of the congregation.

§ 46. If no election at all can be had of church-heads, (vestrymen,) or if the majority of the elected vestrymen refuse to accept or exercise their office, or if it becomes necessary, after a dissolution, to dissolve the newly-elected vestry also, the government president is entitled to order a management by a commission of the church-property, under pertinent application of §§ 9 to 11 of the law of 20th May, 1874.

If no election of representatives of the congregation is held, or if the majority of the representatives refuse to accept or exercise their office, or if, after a dissolution, the newly-elected body must also be dissolved, the government president is entitled to appoint a commission to attend as well to the affairs of the vestry as to those of the community-representation.

VIII.—*Rights of supervision.*

§ 47. The legal management-forms are not affected by this act.

The rights of supervision and assent to certain acts of management which belong to the church-authorities are to be exercised with the limitations contained in the provisions which follow.

§ 48. If the church-authority make no use of its lawful rights of supervision or of assent to certain acts of management, the state supervising authority is to command it so to do. If it fails to obey within 30 days, the exercise of the functions devolves upon the state supervising authority.

§ 49. Against dispositions of the church-authority, refusing assent to certain acts of management, an appeal may be taken by the vestry to the upper president, who decides finally.

§ 50. The resolutions of the vestry and of the representatives of the congregation to be valid require the assent of the state supervising authority in the following cases:

1. Upon the acquisition, alienation, or mortgaging of real estate;

2. Upon the alienation of objects which have a historical, scientific, or artistic value;

3. Upon making loans in the sense of § 21, No. 4;
4. Upon erecting new buildings for divine service for priests or other church-servants;
5. Upon the establishing of new burial-places or changing the use of old ones;
6. Upon the institution or changing of dues;
7. Upon the ordering or holding of collections, subscriptions, &c., for church, charitable, or school purposes, outside the church-buildings.
8. Upon the appropriation of church-property for purposes which do not concern the spiritual, charitable, or school needs of the congregation itself.

In case of "8" the assent is held to be given when the supervising authority of the state does not, within 30 days after receipt of the resolution, raise objections thereto.

9. Upon assessments upon the members of the congregation.

In the case of "9" there would be particular ground for refusing assent in view of irregularity in the imposition, unsuitableness of the rate, or inability to meet the requirement on the part of those so called upon.

As regards donations and testamentary bequests and devices, the law of February 23, 1870, obtains.

§ 51. The vestry, for the institution of legal proceedings, does not require the consent of a state or church tribunal. Certificates as to the sufficiency of the vestry in matters of law, or certificates as to the existence of facts, on which a claim for immunity from costs is based, can only be validly executed by the state supervising authority.

§ 52. The state supervising authority is entitled to examine the budget and to object to such items as are contrary to law. The items so objected to shall not be carried into execution.

§ 53. If the vestry or the community-representation refuses to insert in the budget, to fix or to assent to obligations properly to be met out of the church-property, or devolving upon pastors, and others, either the diocesan authority or the state supervising authority, with a mutual understanding, is to cause the insertion to be made and take other necessary measures.

Under the same circumstances these authorities are empowered to order and adopt the needful measures to effect the judicial establishment of claims of the church, of the pastor, of the community, and of claims as to the property under the control of the vestry, and in particular of claims for damages arising out of the unlawful acts of priests or other church-servants.

§ 54. The yearly accounts are to be furnished the state supervising authority for examination as to whether the management has been conducted according to the budget.

§ 55. What state authorities are to exercise the functions of supervision mentioned in §§ 48, 50 to 52, 53, 54, is to be determined by royal decree.

IX.—*Final transition-provisions.*

§ 56. The provisions of this law do not apply to cathedral, military, and institution congregations.

§ 57. On and after October 1, 1875, the functions devolving under this law upon the vestry and the representatives of the congregation shall not be exercised by other persons or authorities than those mentioned in this law. Where, according to heretofore-existing law, church-officers, church-vestries, church-colleges, factory-counselors, church masters, representatives, &c., have exercised other functions than those of management of property, such functions, where they have been exercised by officers directly intrusted with the management of property, devolve upon the vestry; in all other cases, upon the representatives of the congregation. If none exist, the functions of the representatives of the congregation also devolve upon the vestry.

§ 58. The lawful rights of diocesan authorities, with regard to the management of property in church-communities, are in abeyance during such time as the diocesan authorities refuse obedience to this law or while the respective office is not legally filled or administered. Such refusal is to be assumed when the diocesan authority does not, upon a written demand of the upper president, within 30 days, declare itself ready to comply in all points with the provisions of this law.

The functions appertaining to diocesan authorities devolve in such cases upon the respective state authority.

§ 59. All existing provisions opposed to this law, whether contained in the common law obtaining in parts of the country, in provincial laws, in local laws or local ordinances, or founded on observance or usage, are abolished.

§ 60. The carrying out of this law devolves upon the minister for ecclesiastical affairs.

He is empowered, in view of peculiar local or other circumstances and of peculiar arrangements for the management of property, to prolong the term for its execution fixed by section 57, subdivision 1.

In testimony whereof we have hereunto affixed our signature, and caused our royal seal to be affixed.

Done at Bad Ems, 20th June, 1875.

[L. S.]

WILLIAM.

PRINCE BISMARCK.
COUNT ZU EULENBURG.
FALCK.
VON KAMEKE.
FRIEDENTHAL.
CAMPHAUSEN.
LEONHARDT.
ACHENBACH.

Published at Berlin 29th June, 1875.

SUPPLEMENT.

Election-regulations accompanying the law concerning the management of property in Catholic parishes, of June 20, 1875.

[Translation.]

Election regulations.

ARTICLE 1. The vestry shall order the election of the church-heads and of the representatives of the congregation, prepare the list of qualified voters, and exhibit the same in some public place which is of free access to everybody.

Public notice shall be given to the community of the time and place of exhibition, adding that after the expiration of the time of exhibition objection can no longer be made to the list. The vestry, in their judgment, may give public notice in other manners, in accordance with local circumstances.

Every member of the congregation who is a qualified voter may make objection.

ARTICLE 2. The vestry shall decide the objections made and correct the list. The party excluded from the election by such decision shall have the right of appeal to the representatives of the congregation within the period of two weeks after notice, and, in case none such exists, to the diocesan authority. The latter is to decide in agreement with the government president. The impending election shall not be impeded by the appeal. At least two weeks must lie between the expiration of the time of appeal and the day of election.

ARTICLE 3. The call for the election must contain the time and place of the election and the number of persons to be elected, and public notice of the same must be given to the community by posting. The vestry in their judgment may give public notice in other manners, in accordance with local circumstances.

ARTICLE 4. The president of the vestry and four associates, whom the president selects from the eligible members of the community, shall form a directory of the elections.

ARTICLE 5. The act of voting shall be managed by the president.

ARTICLE 6. The right to vote shall be exercised in person by means of inclosed tickets, without signature, to be deposited in an election urn.

ARTICLE 7. If on the first vote a majority is not attained for the number of persons requisite for the formation of the vestry or the representatives of the congregation, an election shall ensue from those who received the most votes. If the number of the same is more than twice the number of the persons to be elected as vestrymen or representatives of the congregation, so many of those who have received the least number of votes shall be dropped as will leave the number of the eligible persons equal to twice the number of the persons to be elected. Every case of tie shall be decided by lot.

ARTICLE 8. After the president has declared the election closed, no vote shall be allowed to be cast.

ARTICLE 9. The directory of the election decides the validity or invalidity of the ticket.

ARTICLE 10. Minutes shall be kept of the act of voting which shall contain the essential parts of the proceeding. The same is to be signed by the president and at least two (2) members of the directory of election.

ARTICLE 11. The election of the vestrymen must precede that of the representatives of the congregation.

ARTICLE 12. The names of the persons elected shall be published to the community by posting. The vestry, in their judgment, may give public notice in other manners, in accordance with local circumstances.

ARTICLE 13. Objections to the election must be made with the vestry within a period of two weeks, to be reckoned from the last day of posting, who decide upon them. Against a decision dismissing the appeal, an appeal lies to the diocesan authority within a period of two weeks from the time of notice, who, in agreement with the government president, shall render the decision.

ARTICLE 14. The diocesan authority, in agreement with the government president, shall appoint the directory of election and the president of the same for the first election. The directory of the election takes upon itself the functions of the vestry. The same also applies to the case of a dissolution of the vestry.

[Inclosure 5 in No. 478.—Translation.]

Law concerning the right of the state's supervision in administration of property in Catholic dioceses, 7 June, 1876.

(No. 8,411.) Law concerning the right of the state's supervision in the administration of property in the Catholic dioceses, of the 7th June, 1876.

We, William, by the grace of God King of Prussia, &c., ordain, with the consent of both houses of the Landtag, for the extent of the monarchy as follows:

§ 1. The supervision of the state over the management—

1. Of the effects appropriated to the bishops, bishoprics, and chapters;

2. Of the institutions, foundations, and funds destined for religious, benevolent, or educational purposes, and placed under the administration or supervision of the Catholic ecclesiastical organs which are not affected by the law of June 20, 1875;

will be exercised according to the following provisions:

§ 2. The organs of administration require the consent of the states' supervising authority in the following cases:

1. For acquiring, conveying, or mortgaging real estate.

2. For the sale of objects which have a historical, scientific, or artistic value.

3. For an extraordinary usage of the property which will affect the substance itself, and for the calling in and withdrawing of capital so far as this is not effected for a re-investment at interest.

4. For contracting loans, so far as they do not serve merely for temporary assistance and cannot be refunded from the excess of the current receipts over the expenses of the same period.

5. For the erection of new buildings destined for the worship of God.

6. For establishment of new burial-places or changing the use of the old ones.

7. For the institution or changing of established dues.

8. For the ordering, holding, and carrying into effect of collections and alms-gatherings outside of the church edifice. A house-collection made annually by order of the authorities of the bishopric, for the benefit of the poor parishes of the bishopric, does not require the special authorization of the state authority, but the time of the collection must be announced beforehand by the upper president.

9. For the application of revenues of vacant positions. (Revenues of vacation, revenues of vacant benefices during the time they are vacant.)

10. For the application of property to purposes not intended by the foundation.

In the case of 10 the consent is considered as accorded when the state's supervising authority does not object within thirty days after receipt of the notice of the proposed application. Should the consent of the state's supervising authorities not be obtained, then the transactions in the above-mentioned cases are not valid.

§ 3. The organs of administration do not require an authorization from the state's officials for the conduct of litigation.

Certificates of legitimation of the administrating organs for the execution of legal transactions or certificates, as to the existence of those facts which form the basis of a claim for exemption from costs, can only be validly issued by the state's supervising authority.

§ 4. The state's supervising authority is empowered to demand the preparation and exhibition of an inventory to examine the budget and to object to the items which are contrary to the laws. The items objected to cannot be carried into effect.

The budgets of such administration as receive assistance out of the revenues of the state are to be submitted for approval to the state's supervising authority. This authority fixes the date of the submission, it prescribes the formal preparation of the budget, and fixes the periods for the settlement of the suggestions.

§ 5. Should the organs of administration refuse:

1. To place in the budget, to establish or approve the appropriations which are payable out of the property described in § 1, or for which the same is liable;

2. To put in legal form the claims of the property described in § 1 in particular de-

mands for damages arising from non-fulfillment of duty on part of the holder of an administrative position for matters concerning this property, in those cases in which the diocesan authority has the right of supervision it, as well as the state's supervising authority acting in conjunction; in all other cases the state's supervising authority alone is entitled to cause the claims to be inserted in the budget, and to be made valid at law, and to take the measures necessary for this purpose.

In the cases where an understanding between the diocesan and the state's supervising authority is requisite, the authority whose assent is invoked must answer within 30 days from the time its assent is invoked. If it does not answer, it is deemed to have assented. In case of a disagreement, the appeal-jurisdiction from the state's supervising authority decides.

§ 6. If the administrative organs contest the illegality of the items objected to under § 4, or the existence of an obligatiou to make the appropriations mentioned in § 5, sub 1, the superior administrative court decides upon the complaint of the administrative organs by means of the administrative-controversy procedure.

§ 7. The state's supervising authority is empowered to examine the annual account. of those administrations whose budgets require the approval of the state's supervising authority for examination, in order that it may be determined whether the administration has been conducted in conformity with the budget.

§ 8. The state's supervising authority is empowered to subject the administration of the property to revision.

§ 9. The state's supervising authority is empowered to compel obedience on the part of the administrative organs to the directions contained in §§ 4, 5, 7, and 8, and to the rules established for their execution, by pecuniary fines to the extent of three thousand marks.

This fine may be threatened and imposed repeatedly until the law is complied with.

Moreover, the appropriations out of state funds for the purposes of the property described in § 1 may be retained in whole or in part, or be paid directly to those entitled to receive them.

Should the foregoing measures prove fruitless or inapplicable, the state's supervising authority is empowered to order a management of the property-matters by a commission by application in conformity with the provisions of §§ 9 to 11 of the law of May 20, 1874.

§ 10. Which of the state's authorities shall have the rights of supervisiou described in §§ 2 to 5 and 7 to 9 will be fixed by a royal decree.

§ 11. Concerning donations and testamentary legacies the law of 23d February, 1870, applies.

§ 12. Concerning the property of the orders and of the congregations of a similar nature to them the §§ 3 and 5 of the law of the 31st May, 1875, apply.

§ 13. The rights of property or of administration belonging to the state in the property mentioned in § 1 are not affected by this law.

§ 14. This law will go into effect on the 1st of October, 1876.

§ 15. The minister of spiritual affairs is charged with the carrying into effect of this law.

Done, &c., at Berlin the 7th June, 1876.

[L. S.]

WILLIAM.
PRINCE v. BISMARCK.
CAMPHAUSEN.
COUNT ZU EULENBURG.
LEONHARDT.
FALCK.
ACHENBACH.
V. KAMEKE.
FRIEDENTHAL.

Published at Berlin 14th June, 1876.

No. 85.

Mr. Nicholas Fish to Mr. Fish.

No. 483.] LEGATION OF THE UNITED STATES,
Berlin, September 19, 1876. (Received October 12.)

SIR: I have the honor to inclose herewith a copy and translation of a correspondence between Count Ledochowski and Pastor Brenk. The

Archbishop thus seeks to set the Prussian laws at defiance and to exercise his jurisdiction within the territory of Prussia.

* * * * * * *

I have, &c.,

NICHOLAS FISH.

[Inclosure in No. 483.—Translation.]

Letter of Archbishop Ledochowski to Pastor Brenk, July 8, 1876, *and Pastor Brenk's reply.*

[Extract from Norddeutsche Allegemeine Zeitung, Berlin, 13 September, 1876.]

The Reichs and Staats-Anzeiger writes: After the former archbishop of Posen and Gnesen-Count von Ledochowski had been deposed from his office by judgment and law, had informed the clergy of the archbishoprics, by an address dated from Rome in March last, "that he had resumed the active exercise of the episcopal authority in his two archbishoprics," he has also, in violation of the existing laws of the state, acted in accordance with his words. Under date of July 8 last, he has addressed to Pastor Brenk, at Piaski, the following letter:

"BELOVED SON: The afflicting intelligence has reached us that you have, to the great scandal of the faithful, openly recognized the sacrilegious politico-ecclesiastical laws enacted in recent years by the Prussian government for the overthrow of the Church of Christ our Master, although it could not have been unknown to you that laws of that nature were condemned from time to time, not only by us and all rulers of the church in Prussia, but also by the Holy Father in Rome, the Pope himself, on the 5th February, 1875. Therefore, that we may not seem by our silence to approve your evil action, we admonish you once by this present letter, and this canonical admonition is equivalent to three, that you make reparation within ninety days, reckoned from the date of this letter, for the scandal you have raised; that you retract in writing, in the presence of your deacon and two witnesses, the recognition given by you to the said laws, which writing will be sent to us by you, and that you will conduct yourself from now on as is becoming a Catholic priest and minister of Christ. On the other hand, should the above-mentioned period of ninety days pass away without such result, know then that, *ipso facto*, and without further notice, you are suspended from your office until you come to repentance and make proper reparation. Should you, however, not repent, and do not reform, as we exhort you in the Lord and beseech you through humble prayer to God, we shall be forced to proceed against you with severe punishment.

"Done at Rome 8th July, 1876.

"MIECISLAUS KARDINAL LEDOCHOWSKI,
Archbishop of Gnesen and Posen.

"Rev. D. JULIUS BRENK,
"*Pastor in Piaski, Archbishopric Posen.*"

Pastor Brenk has addressed a written answer to Count Ledochowski in Latin, which, according to the exhibition of it made by Pastor Brenk to the state government, runs as follows in translation:

EMINENCE: I received your letter of admonition in Piaski, on the 8th of July last, and I have referred the same, as was right and proper, to the high royal government for its consideration.

D. J. BRENK.

No. 86.

Mr. Nicholas Fish to Mr. Fish.

No. 495.] LEGATION OF THE UNITED STATES,
Berlin, October 3, 1876. (Received October 17.)

SIR: Referring to my No. 478, inclosing the law concerning the state's right of supervision in the administration of property in Catholic dioceses, I have now the honor to inclose herewith a copy and translation of the royal decree concerning the exercise of the right of supervision on the part of the state in the administration of property in Catholic dioceses, dated 29th September last, and published in the official gazette of September 30.

I have, &c.,

NICHOLAS FISH.

[Inclosure.—Translation.]

Decree concerning the exercise of the right of supervision on the part of the state in the administration of property in the Catholic dioceses, of September 29, 1876.

We, William, by the grace of God King of Prussia, &c., decree, pursuant to § 10 of the law concerning the state's right of supervision in the administration of property in Catholic dioceses, of June 7, 1876, upon the motion of our state ministry, the following for the entire monarchy:

ARTICLE 1. The rights of supervision by the state mentioned in §§ 2 to 5, 7 to 8, of the law of June 7, 1876, are to be exercised—

1. By the minister for spiritual affairs, acting in conjunction with the minister of the interior, whenever his ministry is concerned—

Upon the acquisition, alienation, or hypothecation of real estate, (§ 2, No. 1,) when the value of the subject to be acquired or alienated or when the amount of the mortgage exceeds the sum of ten thousand marks;

Upon the alienation of objects having a historic, scientific or art value, (§ 2, No. 2;)

Upon an extraordinary use of the property, which attacks the substance itself, (§ 2, No. 3;)

Upon the erection of new buildings destined for divine service, (§ 2, No. 5;)

Upon the establishment of places of burial, (§ 2, No. 6.)

2. By the minister of finance and the minister for spiritual affairs in the case of § 4, subdivision 2.

3. By the upper accounting-chamber in the cases of § 7, subdivision 2.

4. By the upper president in the other cases of §§ 2, 4, and 7, as well as in the cases of §§ 3, 5, and 8.

In the cases of § 5 the minister for spiritual affairs decides in case of opposition, and decides in conjunction with the minister of the interior where his ministry is concerned.

ARTICLE 2. The functions mentioned in § 9 of the law of June 7, 1876, will be exercised as follows:

Those mentioned in subdivisions 1 and 2 of the state surveillance-authorities, who in article 1 are designated for the cases of §§ 4, 5, 7, and 8.

Those mentioned in subdivisions 3 and 4 by the minister for spiritual affairs, in the cases of § 4, subdivision 2, and of § 7, subdivision 2, by the minister of finance and the minister for spiritual affairs.

ARTICLE 3. Administrative organs may appeal from the decisions of the upper president, article 1, No. 4, and article 2, as follows:

In those cases in which the resort of the minister of the interior is concerned, to him and to the minister for spiritual affairs.

In all other cases, to the minister for spiritual affairs.

In testimony whereof our own high signature and appended royal seal.

Done at Baden-Baden, September 29, 1876.

[L. S.]

WILLIAM.
FÜRST v. BISMARCK.
CAMPHAUSEN.
GRAF ZU EULENBERG.
LEONHARDT.
FALCK.
KAMEKE.
ACHENBACH.
FRIEDENTHAL.
V. BÜLOW.
HOFMAN.

No. 87.

Mr. Nicholas Fish to Mr. Fish.

No. 501. LEGATION OF THE UNITED STATES,
Berlin, October 15, 1876. (Received Nov. 2.)

SIR: The Prussian Parliament has been dissolved by a royal decree, and the minister of the interior has issued a notice for the election of electors on the 20th, and of members of Parliament on the 27th October.

Besides the ordinary questions upon which the various fractions are generally divided, the complexion of the new Parliament will be studied with deep interest in regard to the question of free trade and protection.

You will remember that in 1873 the Imperial German Parliament passed a law removing the duty on iron after January 1, 1877. It was a compromise between the two parties. At that time the prosperous condition of the iron trade caused this law to give but slight apprehension to those engaged in the various branches of the iron industry. Since then the iron trade, in common with all others, and, perhaps, in excess of all others, has suffered great depression. Those engaged in it, therefore, will use every means to continue the duty which now protects them from competition with foreign manufacturers.

The decision of the question is not, however, with the Prussian, but with the Imperial Parliament. The former may, however, exercise a powerful influence on the action of the latter, should either side be found largely in the majority. Many of its members will be elected to the German Parliament, where they will have the question presented for decision. Should a decided expression of opinion be given in the Prussian Parliament, it would probably guide the action of the Prussian government with its large representation in the Federal Council. As the question now stands, the Prussian government appears disinclined to take active steps on either side, but there are indications that it would not be averse to siding with the protectionists, were an opportunity afforded it.

I have, &c.,

NICHOLAS FISH.

No. 88.

Mr. Nicholas Fish to Mr. Fish.

No. 502.] LEGATION OF THE UNITED STATES,
Berlin, October 16, 1876. (Received Nov. 2.)

SIR: Count Harry Von Arnim has been tried by the Staats Gerichtshof for treason and for calumniating the Emperor and Prince Bismarck, and sentenced to five years' penal servitude. The basis of the charges against Count Arnim was the publication of the pamphlet Pro Nihilo. The count did not appear in person, but through counsel denied all connection with its publication. His counsel also took exception to the jurisdiction of the court, on the ground that Prussian tribunals cannot take cognizance of a charge of high treason against the empire. These pleas were of no avail, and the witnesses for the defense were unable to convince the court that the very strong testimony produced by the prosecution against the count was incorrect.

From the sentence of the court there is no appeal to a higher tribunal, and it is therefore probable that the sentence will amount to one of banishment for life, as it is not likely that while it hangs over him Count Arnim will return to Germany.

I have, &c.,

NICHOLAS FISH.

No. 89.

Mr. Nicholas Fish to Mr. Fish.

No. 510.] LEGATION OF THE UNITED STATES,
Berlin, October 23, 1876. (Received Nov. 10.)

SIR: Referring to your circular of September 18, in regard to the information desired by the Commission of Congress, I have the honor, in ad-

vance of a reply from the foreign office to my note of the 5th instant, to transmit herewith copies of the coinage-laws of the empire of November 11, 1871, and of July 9, 1873, together with translations of the same. Copies of these laws were sent by Mr. Bancroft to the Director of the Mint in October, 1873, in compliance with your circular No. 38, of April 16 of that year.

Under the provisions of these laws there have been coined up to October 7, 1876, a coinage amounting to 1,790,471,158 $\frac{73}{100}$ marks in value. The division among the respective metals is as follows:

	Marks.
Gold	1,425,193,360
Silver	322,544,977 $\frac{39}{100}$
Nickel	33,556,523 $\frac{80}{100}$
Copper	9,176,297 $\frac{63}{100}$

I annex an extract from the National Zeitung showing the division of these amounts among the respective coins.

I have, &c., &c.,

NICHOLAS FISH.

[Inclosure 1 in No. 510.—Translation.]

German gold-coinage law of December 4, 1871.

(No. 745.) Law concerning the coinage of imperial gold coins, of December 4, 1871.

We, William, by the grace of God German Emperor, King of Prussia, &c., decree, in the name of the German Empire, after the approval of the Federal Council and Imperial Diet, as follows:

§ 1. There shall be coined an imperial gold coin, of which 139½ pieces shall be made from a pound (Pfund) of pure gold.

§ 2. The tenth part of this gold coin shall be called a mark, and divided into a hundred Pfennige.

§ 3. Besides the imperial gold coin of ten-mark, (§ 1,) there shall also be coined imperial gold coins of twenty-mark, of which 69¾ pieces shall be made of a pound (Pfund) of pure gold.

§ 4. The alloy of the imperial gold coins shall be fixed at 900 thousandth parts gold and 100 thousandth parts copper. Accordingly, 125.55 ten-mark pieces, or 62.775 twenty-mark pieces, weigh one pound, (Pfund.)

§ 5. The imperial gold coins shall bear on one side the imperial eagle, with the inscription "Deutches Reich," and with the statement of the value in marks, as well as the number of the year (date) of the coinage; on the other side the likeness of the ruler of the state, or, in the case of free cities, the emblem of such free city, with an appropriate inscription and local mint-mark. The diameter of the coins, the nature and inscription of the edges of the same, shall be fixed by the Federal Council.

§ 6. Until the decree of a law concerning the withdrawal of the large silver coins, the coining of the gold coins shall follow, at the cost of the empire, for all the states of the union, at the mints of those states as shall have declared themselves prepared therefor.

The chancellor of the empire shall determine, with the agreement of the Federal Council, the amounts of gold to be coined, the division of these amounts among the different sorts of coin, and among the different mints, and in due proportion the compensation to be allowed the latter for the coinage of each sort of coin. He shall supply the mints with the gold which is necessary for the coinage assigned to them.

§ 7. The execution of the coining of the imperial gold coins shall be fixed by the Federal Council and subject to supervision on the part of the empire. This management shall determine the perfect accuracy of the coins according to value and weight. So far as an absolute accuracy cannot be maintained the variation in excess or in diminution shall exceed in weight more than two and one-half thousandth parts of its weight, in fineness not more than two thousandth parts.

§ 8. All payments which by law are paid or which may be paid in the silver coins of Thaler-currency, of the South German currency, of the Lübeck or Hamburg courant currency, or in the thalers of the gold Bremen currency, can to a like extent be paid in imperial gold coins, (§1 and §3,) which will be reckoned as follows:

The ten-mark piece as worth 3⅓ thalers, or 5 florins 50 kreutzers South German cur-

rency, 8 marks 5¼ schilling Lübeck or Hamburg courant currency, 3⅓ thalers gold Bremen currency.

The twenty-mark piece as worth 6⅔ thalers, or 11 florins 40 kreutzers South German currency, 16 marks 10⅔ schilling Lübeck and Hamburg courant currency, 6⅔ thalers gold Bremen currency.

§ 9. Imperial gold coins whose weight is not more than five thousandth parts less than the standard weight, (§ 4) (passirgewicht tolerated weight,) and which have not become diminished in weight through violent or illegal injury, shall be received in all payments as being of full weight.

Imperial gold coins which do not attain the aforesaid tolerated weight, (passirgewicht,) and that may be received in payment at the imperial, state, provincial, or communal treasuries as well as at the gold or credit establishments and banks, shall not again be issued by the said treasuries and establishments.

When, in consequence of long circulation and wear, the imperial gold coins have suffered so much in weight that they no longer attain the tolerated weight, they shall be withdrawn for melting at the expense of the state. Further, such worn gold pieces shall always be received by all the treasuries of the empire and of the states of the Bund at the same value at which they were issued.

§10. The coinage of other gold coins than those introduced by this law, as well as of large silver pieces, with the exception of medals, shall not take place until fu ther notice.

§ 11. The present current gold coins of the German bund states are to be withdrawn on account of and at the cost of the empire, in proportion to the gold coinage of the new gold pieces. (§ 6.)

The chancellor of the empire is empowered in the same way to direct the withdrawal of the former large silver pieces of the German states of the bund, and to take for this purpose the necessary means out of the funds set apart for the same in the imperial treasury.

Concerning the execution of the foregoing provisions, an account is to be given annually to the imperial Parliament at its first regular session.

§ 12. Weights for gauging and stamping shall be permitted which shall represent the standard weight and the current weight of the coins to be coined by the provisions of this law, also multiples of each of the same. For the gauging and stamping of these weights the provisions of articles 10 and 18 of the regulations for measures and weights of the 17th August, 1868, shall be binding.

§ 13. In the territory of the kingdom of Bavaria, in case of necessity a subdivision of the pfennig into two half-pfennige may be made.

In testimony whereof we have hereunto set our hand and the imperial great seal.

Given at Berlin December 4, 1871.

[L. S.]

WILLIAM.
PRINCE v. BISMARCK.

Published at Berlin December, 7, 1871.

[Inclosure 2 in No. 510.—Translation.]

German coinage law July 9, 1873.

(No. 953.) Mint law of July 9, 1873.

We, William, by the grace of God German Emperor, King of Prussia, &c., decree in the name of the German Empire, after the approval of the federal council and the imperial Parliament, as follows:

ARTICLE 1.

The imperial gold coinage takes the place of the present currencies of the states.

Its unit is the mark, as the same is established by § 2 of the law of December 4, 1871, concerning the coinage of imperial gold coins. (Reichs Gesetsblatt, p. 404.)

The date on which the imperial coinage shall go into effect in the whole district of the empire shall be fixed by a decree of the Emperor to be issued with the consent of the federal council, to be published at least three months before the arrival of that date. The state governments are empowered also before that date to introd uce the imperial mark currency by a decree in their district.

ARTICLE 2.

Besides the imperial gold coins mentioned in the law of December 4, 1871, there shall also be coined imperial gold coins of five marks, of which 279 pieces shall be made from a pfund (pound) of pure gold. The provisions of §§ 4, 5, 7, 8, and 9 of that law have appropriate application to this coin, but with the provision that in regard to it the variation in excess or in diminution (§ 7) shall amount to four thousandth parts, and the difference between the standard weight and the tolerated weight (§ 9) to eight thousandth parts.

ARTICLE 3.

Besides the imperial gold coins there shall be coined as imperial coins—

1. As silver coins—five-mark pieces, two-mark pieces, one-mark pieces, fifty-pfennige pieces, twenty-pfennige pieces.

2. As nickel coins—ten-pfennige pieces and five-pfennige pieces.

3. As copper coins—two-pfennige pieces, one-pfennig pieces, according to the following provisions:

§ 1. In the coining of silver coins the pound (pfund) of fine silver shall be made into—

20 five-mark pieces,
50 two-mark pieces,
100 one-mark pieces,
200 fifty-pfennige pieces, and into
500 twenty-pfennige pieces.

The alloy consists of 900 parts silver and 100 parts copper, so that 90 marks in silver coins weigh 1 pound, (pfund.)

The execution of the coining of these coins shall be regulated by the federal council. In the single pieces the variation in excess or in diminution shall not exceed three thousandth parts in weight, with exception of the twenty-pfennige pieces not more than ten thousandth parts. In the bulk, however, the standard weight and the standard fineness must be attained in regard to all silver coins.

§ 2. The silver coins above one mark bear on one side the imperial eagle, with the inscription "Deutches Reich," and the statement of the value in marks as well as the date of the coining; on the other side the likeness of the ruler of the state, or, in the case of free cities, the emblem of the free city, with an appropriate inscription and the mint-mark. The diameter of the coins, the nature and inscription of the edges of the same, shall be fixed by the federal council.

§ 3. The remaining silver coins, the nickel and copper coins, bear on one side the statement of value, the date, and the inscription "Deutches Reich;" on the other side the imperial eagle and mint-mark. The more exact regulations concerning the composition, weight, and diameter of these coins, as well as the ornamentation of the reverse side, and the finishing of the edges, shall be determined by the federal council.

§ 4. The silver, nickel, and copper coins shall be coined at the mints of those states that declare that they are prepared for the purpose. The coining and issuing of these coins is subjected to supervision by the empire. The chancellor of the empire shall determine, with the consent of the federal council, the amounts to be coined, the division of these amounts among the various sorts of coins and among the different mints, and in due proportion the compensation to be allowed for the coining of each sort of coin. The furnishing of the metal for the coinage for the mints is to be effected upon an order of the chancellor of the empire.

ARTICLE 4.

The entire amount of imperial silver coins shall not, until otherwise directed, exceed ten marks per capita of the population of the empire.

Upon each issue of these coins an equal quantity in value of the circulating coarse silver coins of the states, beginning with those not belonging to the thirty-thaler basis, shall be withdrawn. The value is to be computed according to art. 14, § 2.

ARTICLE 5.

The entire amount of the nickel and copper coins shall not exceed two and a half marks per capita of the population of the empire.

ARTICLE 6.

Of the fractional coins of the different states the following are to be withdrawn by the date of the inauguration of the imperial currency:

1. Those depending on the thaler basis, with the exception of the Bavarian heller, and of the five, two, and one pfennig pieces of Mecklenburg, coined under the mark system.

2. The fractional coins of 2 and 4 pfennige depending on the duodecimal division of the groschen.

3. The fractional coins of the thaler currency, depending on another division of the thaler than that of 30 groschens, with the exception of the pieces of the value of $\frac{1}{12}$ thaler.

After this date no one shall be obliged to receive these fractional coins in payment except the treasuries upon which the duty of redeeming them devolves.

ARTICLE 7.

The coining of the silver, nickel, and copper coins, (Art. 3,) as well as the withdrawal of the silver coins and fractional coins of the states, shall be effected at the cost of the empire.

ARTICLE 8.

The federal council will direct the withdrawal of the coins of the states and establish the necessary provisions for the same.

The notices concerning the withdrawal of the coins of the states are in addition to the publication in papers, to be determined by direction of the states, to be also published in the "Reichs Gesetzblatt."

A withdrawal shall only then take place when a period for redemption of at least four weeks has been appointed, and has been made known by the designated papers, at least three months before its expiration.

ARTICLE 9.

No one is obliged to receive in payment imperial silver coins in an amount greater than 20 marks, and nickel and copper coins in an amount greater than 1 mark.

By the imperial and state treasuries, imperial silver coins shall be received in any amount.

The federal council will designate those treasuries that will deliver imperial gold coin, upon the payment of imperial silver coin for the same, in sums of at least 200 marks, or of nickel and copper coins in sums of at least 50 marks, upon demand.

It will also prescribe the particular conditions of the exchange.

ARTICLE 10.

The obligation to receive and exchange (Art. 9) does not apply to perforated coins, or to any whose weight has been otherwise diminished than by ordinary circulation, nor to counterfeit coins.

Imperial silver, nickel, and copper coins which have lost materially, in consequence of long circulation and use, in weight or inscription, will be nevertheless received in all the treasuries of the empire and of the states, but will be withdrawn at the cost of the empire.

ARTICLE 11.

Coins other than the silver, nickel, and copper coins introduced by this law will hereafter not be coined. The right reserved by the provision contained in section 10 of the law concerning the coinage of imperial gold coins of December 4, 1871, (Imperial Law Gazette, p. 404,) to coin silver coins as medals, expires on the 31st December, 1873.

ARTICLE 12.

Imperial gold coins will be coined hereafter according to the provisions of section 6 of the law concerning the coinage of imperial gold coin of 4th December, 1871, (Imperial Law Gazette, p. 404,) at the expense of the empire.

Private persons shall have the right to have 20-mark pieces coined for their account at such mints as have declared themselves ready to coin for the account of the empire, in so far as such mints are not engaged for the empire.

The charge to be made for such coinage will be fixed by the imperial chancellor, with the concurrence of the federal council, but shall not exceed the maximum of 7 marks for the pound of pure gold.

The difference between this charge and the compensation which the mint claims for coining goes to the imperial treasury. This difference must be the same for all German mints.

The mints shall claim no greater compensation for coining than the imperial treasury allows for the coinage of 20-mark pieces.

ARTICLE 13.

The federal council is empowered—

1. To fix the value beyond which foreign gold and silver coins shall not be tendered and given in payment, as also to wholly prohibit the circulation of foreign coins.

2. To determine whether foreign coins may be taken in payment by the treasury of the empire or the several states in inland commerce at a rate to be published, and also in such cases to fix the rate.

Habitual contravention against the dispositions made by the federal council in accordance with provision 1 will be fined 150 marks, or punished with imprisonment not exceeding six weeks.

ARTICLE 14.

From the inauguration of the imperial currency the following provisions shall be in force:

§ 1. All payments which, until that time, were to be made in coins of an inland currency, or in foreign coins made equivalent to inland coins by the laws of the several states, shall be made in imperial coin; without prejudice, however, to the provisions of articles 9, 15, and 16.

§ 2. The conversion of gold coins for which a certain proportion to silver coins is not fixed by law, is to be made according to the proportion of the fine gold contained, according to law, in the coins mentioned in the obligation to pay, to the pure gold contained in the imperial gold coin according to law.

In the conversion of other coins the thaler will be reckoned at the value of 3 marks, the gulden of South German currency at the value of $1\frac{7}{12}$ marks, the mark of Lubec or Hamburg currency (kurantwährung) at the value of $1\frac{1}{2}$ marks, and the remaining coins of the same currencies at corresponding values, according to their proportion to the coins mentioned.

In the conversion, fractions of pfennige of the imperial currency will be reckoned at 1 pfennig, if they amount to one-half pfennig or more; fractions under $\frac{1}{2}$ pfennig are not reckoned.

§ 3. If obligations to pay are entered into after the inauguration of the imperial currency on the basis of former inland money or accounting currencies, (geld oder rechnungswahrungen,) payment shall be made in imperial coin according to the provisions of § 2, without prejudice to articles 9, 15, and 16.

§ 4. In all documents of writing made in court or before a notary public concerning an amount of money, and also in all judgments of courts which condemn to a sum of money, this sum of money, if a certain proportion of the same to the imperial currency is legally established, is to be expressed in imperial currency; besides which, however, the designation according to the currency in which the obligation was originally entered into is allowed at the same time.

ARTICLE 15.

In the place of the imperial coins there are to be received in all payments until the withdrawal from circulation—

1. In the entire territory of the bund, in place of all imperial coins the 1 and 2 thaler pieces of German coinage, reckoning the thaler at 3 marks.

2. In the entire territory of the bund, in place of the imperial silver coins current silver coins of German coinage of $\frac{1}{3}$ and $\frac{1}{6}$ thaler, reckoning the $\frac{1}{3}$ thaler at 1 mark, and the $\frac{1}{6}$ thaler at half a mark.

3. In those countries in which at present the thaler currency obtained, instead of the imperial nickel and copper coins, the following coins of the thaler currency at the value given beside them—

$\frac{1}{12}$-thaler pieces, at the value of 25 pfennige.
$\frac{1}{15}$-thaler pieces, at the value of 20 pfennige.
$\frac{1}{30}$-thaler pieces, at the value of 10 pfennige.
$\frac{1}{2}$-groschen pieces, at the value of 5 pfennige.
$\frac{1}{5}$-groschen pieces, at the value of 2 pfennige.
$\frac{1}{10}$ and $\frac{1}{12}$ groschen pieces, at the value of 1 pfennig.

4. In those countries in which the duodecimal division of the groschen exists, in the place of the imperial nickel and copper coins the 3-pfennige pieces based on the duodecimal division of the groschen, at the value of $2\frac{1}{2}$ pfennige.

5. In Bavaria, in the place of the imperial copper coins, the Heller-pieces, at the value of $\frac{1}{2}$ pfennig.

6. In Mechlenburg, in place of the imperial copper coins, the 5-pfennige, 2-pfennig, and 1-pfennig pieces, coined under the mark system, at the value of five, two, and one pfennig.

All the coins designated in 3 and 4 are to be received in payment at all public treasuries of entire empire at the above-stated values until the withdrawal of them from circulation.

ARTICLE 16.

German gold crowns, gold coins of the different states, and foreign gold coins declared equal to domestic coins by the law of the land, as well as coarse silver coins which belong to some other currency of particular states other than the thaler currency, are to be received in payment until withdrawn from circulation, in so far as payment in those coins must have been accepted according to heretofore-existing rules.

ARTICLE 17.

Already before the inauguration of the imperial gold currency, all payments which may legally be made in coins of a domestic currency or in foreign coins declared equal to domestic coins by the law of the land, may be made wholly or in part in imperial coins, subject to the provisions of article 9, in such manner that the calculation of value is to take place according to article 14, § 2.

ARTICLE 18.

By the 1st of January, 1876, all bank-notes not calling for imperial currency are to be withdrawn. After this date only such bank-notes as call for imperial currency in sums of not less than 100 marks shall remain in circulation or be issued.

The same provisions apply to the notes hitherto issued by corporations.

The paper money issued by the individual states of the union is to be withdrawn at the latest by the 1st of January, 1876, and to be called in at the latest six months before this date. On the other hand, an issue of imperial paper money will take place in accordance with an imperial law to be enacted. The imperial law will make detailed provisions concerning the issue and circulation of the imperial paper money, as well as concerning the facilities to be extended to the individual states of the union in the withdrawal of their paper money.

In testimony whereof, our own high signature and imperial seal.

Done at Bad Ems, July 9, 1873.

(Signed) WILLIAM.

[SEAL.] (Signed) PRINCE v. BISMARCK.

Published at Berlin, 15th July, 1873.

[Inclosure 3 in No. 510.—Translation.]

Extract from National Zeitung, showing amount of imperial coinage to October 7, 1876:

In the German mints up to October 7, 1876, there were coined—

Of gold coins: 1,092,367,980 marks, double crowns (20^{m}); 332,825,380 marks, crowns, (10^{m}.)

Of these, 171,345,164 marks were on private account.

Of silver coins: 67,237,590 marks, 5-mark pieces; 39,022,844 marks, 2-mark pieces; 143,512,165 marks, 1-mark piece; 39,643,058 marks, 50 pfennige, 50-pfennige pieces; 33,129,319 marks, 80 pfennige, 20-pfennige pieces.

Of nickel coins: 22,320,799 marks, 50 pfennige, 10-pfennige pieces; 11,235,724 marks, 30 pfennige, 5-pfennige pieces.

Of copper coins: 5,831,665 marks, 46 pfennige, 2-pfennige pieces; 3,344,632 marks, 17 pfennige, 1-pfennige pieces.

Total coinage.

Of gold coins, 1,425,193,360 marks.
Of silver coins, 322,544,977 marks 30 pfennige.
Of nickel coins, 33,556,523 marks 80 pfennige.
Of copper coins, 9,176,297 marks 63 pfennige.

No. 90.

Mr. Schlözer to Mr. Fish.

GERMAN LEGATION,
Washington, June 29, 1876. (Received June 29.)

SIR: The Emperor of Germany has directed to His Excellency the President a letter of congratulation for the 4th of July, and I have been requested by His Majesty to transmit this letter personally on the 4th of July.

I therefore take the liberty to beg you, respectfully, to inform me whether the President will accord me the honor to receive me that day for the purpose which I have indicated.

Accept, &c.,

SCHLÖZER.

[Inclosure.—Translation.]

The Emperor William to the President.

William, by grace of God Emperor of Germany, King of Prussia, &c., to the President of the United States of America:

GREAT AND GOOD FRIEND: It has been vouchsafed to you to celebrate the Centennial festival of the day upon which the great republic over which you preside entered the rank of independent nations. The purposes of its founders have, by a wise application of the teachings of the history of the foundation of nations and with insight into the distant future, been realized by a development without a parallel. To congratulate you and the American people upon the occasion affords me so much the greater pleasure, because, since the treaty of friendship which my ancestor, of glorious memory, King Frederic II, who now rests with God, concluded with the United States, undisturbed friendship has continually existed between Germany and America, and has been developed and strengthened by the ever-increasing importance of their mutual relations, and by an intercourse becoming more and more fruitful in every domain of commerce and science. That the welfare of the United States and the friendship of the two countries may continue to increase, is my sincere desire and confident hope.

Accept the renewed assurance of my unqualified esteem.

WILLIAM.

Countersigned:

VON BISMARCK.

BERLIN, *June* 9, 1876.

No. 91.

The President to the Emperor of Germany.

WASHINGTON, *July* 18, 1876.

GREAT AND GOOD FRIEND: Your letter of June 9, in which you were pleased to offer your cordial congratulations upon the occasion of the Centennial anniversary which we have recently celebrated, was placed in my hands on the 4th of July, and its contents were perused with unfeigned satisfaction.

Such expressions of sympathy for the past progress of this country and of good wishes for its further welfare, as are contained in that communication, are the more gratifying because they proceed from the head of a great empire with which this Republic during the whole century of its existence has maintained relations of peace and friendship, which have been conspicuous alike in prosperity and in adversity, and have become continually firmer with the increasing progress and prosperity of both countries. It is my sincere desire that this mutual cordiality and this prosperity, which have been the lot of the two countries during the first century of our Independence, may be vouchsafed to them during the century which is to come. Wishing you a long reign of health and happiness, I pray God that He may have Your Majesty in His safe and holy keeping.

U. S. GRANT.

GREAT BRITAIN.

No. 92.

General Schenck to Mr. Fish.

No. 864.] LEGATION OF THE UNITED STATES,
London, February 1, 1876. (Received February 16.)

SIR: Inclosed with this I transmit an open original letter addressed to the President, together with a parcel containing a number of accompanying charts. It is a petition, you will see, from "the Direct United States Cable Company," and that association being a respectable and responsible English corporation, and its application for protection made apparently with good cause and in the public interest, I have not hesitated to forward the papers, as requested by Mr. Chanoin, the managing director.

I have, &c.,

ROBT. C. SCHENCK.

[Inclosure in No. 864.]

THE DIRECT UNITED STATES CABLE COMPANY, LIMITED,
PALMERSTON BUILDINGS, OLD BROAD STREET,
London, E. C., 27th January, 1876.

SIR: I have the honor to inclose a letter from my company to the President of the United States, praying that the United States Government will grant such assistance to my company as will protect its cables from future injury, and elucidate the facts connected with past interruptions.

I now beg leave to ask your excellency to kindly forward the letter and the accompanying charts to the President.

I have the honor to be, your excellency's most obedient servant,

G. VON CHANOIN,
Managing Director.

To His Excellency ROBERT C. SCHENCK,
Envoy Extraordinary, Minister Plenipotentiary of the United States of America,
5 Westminster Chambers, Victoria street, L. W.

[Inclosure in inclosure in No. 864.]

THE DIRECT UNITED STATES CABLE COMPANY, LIMITED,
PALMERSTON BUILDINGS, OLD BROAD STREET,
London, E. C., January 27, 1876.

SIR: The Direct United States Cable Company was formed as an English company, incorporated in March, 1873, under the companies' acts 1862 and 1867, with a capital of £1,300,000 sterling, which was fully subscribed for.

The cables were manufactured and laid for this company by Messrs. Siemens Brothers, of London, for which the company has paid upward of £1,245,000 sterling.

The cables, which consist of one from Ireland to Nova Scotia, and another from Nova Scotia to New Hampshire, United States, were partly laid in the summer of 1874, during the subsequent winter, and completed on the 5th day of September, 1875.

The cables were opened for public traffic on the 15th day of September, 1875, at a tariff reduced below that which had up to that moment been in force over the cables of the Anglo-American Telegraph Company.

On the 27th of September, 1875, the Ireland Nova Scotia cable was interrupted in latitude 45° 7′ 12″ N., longitude 54° 21′ 24″ W., by the dragging of an anchor or grapnel, and the company was obliged to charter a telegraph steamer for the purpose of proceeding to the place of the interruption and repairing the cable.

The repair was effected on the 4th day of November, 1875, and the line was re-opened for public traffic on the 6th of November. On the 10th December the Ireland Nova Scotia cable was again interrupted, this time in latitude 44° 41′ 42″ N., longitude 58° 52′ 12″ W., and again by the dragging of an anchor or grapnel over the cable.

Again the company was obliged to send out a telegraph ship to have the cable repaired, and on the 10th day of January, 1876, the cable was repaired and communication restored. On the same night traffic was resumed over the company's lines; but on the 23d day of January, 1876, the Torbay New Hampshire section of the cable was broken, and up to the present moment traffic has not been resumed.

The Torbay New Hampshire cable, which was laid in the summer of 1874, and which remained perfectly intact throughout the whole of the two fishing seasons of 1874 and 1875, has now suddenly been interrupted.

That portion of the Ireland Nova Scotia cable which has twice been interrupted since the company opened its lines for public traffic was also laid in the summer of 1874, and has never been touched until after the opening of the company's lines.

The fractured ends which have been brought home from the places of the two first interruptions, show beyond a doubt that the cable was broken by main force, such as a ship's anchor being intentionally or unintentionally dragged across the line of the cable.

The fractures took place in a depth of from 80 to 100 fathoms, which is, no doubt, an unusual depth for any vessel to anchor in, and almost in each instance at the same time, viz, about 3 or 4 o'clock p. m.

The condition, moreover, of the cable after each repair had been effected was absolutely perfect, thus furnishing additional proof, if such indeed be needed, that the cable is itself in every respect as strong and good as it was when laid, and it is to the best of my belief the best insulated and best made cable of such a length ever laid.

The losses incurred by the company on account of these constantly occurring interruptions are ruinous to its business. Sixty thousand pounds sterling have already been expended for the two first repairs, and another sum of nearly £30,000 will probably be required to remedy the present fracture in the Nova Scotia and New Hampshire cable; but, worse than this, the entire interruption of the company's traffic, the total loss of any revenue throughout the duration of each interruption, the consequent distrust created in the public mind with regard to the stability of the company, which reduces its traffic after each interruption to such an extent that only the most active exertions in the traffic department of the company are able in some measure to make good the falling off, the difficulty of keeping a large staff of employés in a thoroughly and efficiently organized state when half their time is passed without any work to be done, and innumerable minor inconveniences and dangers arising out of a state of affairs like this, have so injured the company, that its directors feel that, in the interests of their shareholders and of the public at large, (who naturally benefit by an active competition in the Atlantic-cable service not only in point of price but also as regards prompter and more accurate transmission of messages,) they are compelled to ask for the aid of your Government to assist them in every possible respect not only to find out those concerned in the three breakages which have already occurred, but also to adopt such measures as will effectually prevent any future recurrence of these disastrous breakages, whether they be brought about by ignorance or by malice.

My directors have already offered a reward of £500 sterling to any person able to give information as to the name of the steamer, sailing-ship, fishing-smack, or other vessel concerned in any of the previous breakages, which reward is increased to £1,000 in case malice should be proved.

My directors, therefore, pray that your Government will, for the protection of the exceedingly valuable property of the company, and for the protection of the interests of the telegraphing communities on both sides of the Atlantic, issue a notice warning the owners and captains of ships not to anchor near the course of the cable, and offering a reward on behalf of your Government in order to find out the vessels which have been concerned in the ruptures of this company's cables for the past. My directors beg to suggest the advisability of posting up, by order of your Government, such notice, accompanied by charts showing the course of our cables, (of which I have the honor to forward herewith four,) in the custom-houses or other suitable places in all the fishing-ports under the jurisdiction of your Government.

I have the honor to be, your excellency's most obedient servant,

G. VON CHANOIN,
Managing Director.

No. 93.

Mr. Fish to Mr. Schenck.

No. 850.] DEPARTMENT OF STATE,
Washington, February 21, 1876.

SIR: I have to acknowledge the receipt of your No. 864, inclosing a communication addressed to the President on behalf of the

Direct United States Cable Company, Limited, relative to losses suffered from breakages in their cables, and accompanied by charts showing the line of these cables.

This communication, addressed by the managing director to the President, represents that the company is an English corporation, and has laid and controls two cables, one between Ireland and Nova Scotia, and the other between Nova Scotia and a point on the coast of New Hampshire; that the cable to Nova Scotia has been twice broken, and that from Nova Scotia to New Hampshire once broken, causing heavy expenses; and it is suggested that steps be taken by this Government to discover the offenders, and to prevent a recurrence of such injuries by notices and warnings.

In reply, I have to say that while the Government of the United States is greatly interested in the furtherance of new enterprises, affording competing lines of cable, it is not apparent what steps can be taken with effect either in the way of threats of punishment or warnings. The two breakages in the line from Ireland to Nova Scotia occurred beyond the jurisdiction of the United States, as is believed to be the case with the breakage in the other line; and it is not apparent that an offense in such respect could be punished by our law as now existing. In such case threats or warnings can be followed by no punishment.

It is probable, however, that every facility would be given in this country, should the company desire, to notify masters of vessels and others as to the locality of the cable, that injury may not intentionally be done.

In this connection, it may be well to call attention to the circular issued from this Department in the month of November, 1869, suggesting the adoption of measures by the different powers for the protection of cable-lines, and for laying of new cables, and inclosing a draft convention to carry out suggestions.

A copy of these papers was forwarded to Mr. Motley, and in his No. 217, dated December 14th, 1869, he forwards his correspondence with the secretary of state for foreign affairs, and although some negotiation ensued here, no result was ever reached.

It may not be improper to bring to the notice of any parties who may seek protection for such enterprises in individual cases the fact that this Government was long since aware of the want of some general measures of the nature adverted to, and took steps to bring the matter to the attention of other powers.

I am firmly of opinion that the amount of capital invested in these enterprises, and the necessity of keeping this means of communication free from interruption or injury, make it desirable, if not necessary, that some general steps should be taken in the matter; but it does not appear practicable for a single country to assume to protect telegraphic cables under the high seas.

I am, &c.,

HAMILTON FISH.

No. 94.

Mr. Fish to Mr. Pierrepont.

No. 18.] DEPARTMENT OF STATE,
Washington, August 8, 1876.

SIR: I inclose herewith a copy of a joint resolution of Congress approved July 7, 1876, with reference to one Edward O'M. Condon, who is now

imprisoned in Great Britain, by which you will perceive that the President is requested to take such steps as in his judgment may tend to obtain the pardon or release of Condon.

The facts of the case are well known to the Department, and appear upon the files of your legation.

The prisoner was charged with complicity in an attack made upon the police at Manchester, in September, 1867, in an attempt to rescue certain Fenian prisoners.

He was tried with several others, convicted of murder, and sentenced to be executed. Through the interposition of Mr. Adams, then minister of the United States, his sentence was commuted to imprisonment for life, while others were executed, and he is now in prison in conformity therewith.

Condon was a soldier in the Government service during the late war, and, as is reported, rendered efficient service, and whether occasioned by a belief in his innocence or arising from sympathy, it is quite plain that his case has excited great interest in the United States and given rise to frequent representations to the Government, and requests for its aid to obtain his release.

The case has more than once been brought to the attention of the government of Great Britain, which has not heretofore been disposed to extend further clemency to him.

During the present session the subject has been brought to the attention of Congress through many channels, by reason of which this joint res lution has been passed.

Although the matter has heretofore been pressed upon the British government, the President under these circumstances feels it incumbent upon him to again present the subject.

You will therefore furnish Lord Derby with a copy of the inclosed joint resolution and invite his attention thereto, and while explaining the reasons which induce the President to recur to the subject, you will also state that he still indulges the hope that Her Majesty's Government may find it consistent with its views to take steps to accomplish the purpose of the resolution.

I am, &c.,

HAMILTON FISH.

[Inclosure.]

Joint resolution for the relief of Edward O'M. Condon.

Whereas Edward O'M. Condon, a citizen of the United States, is now, and has been for some time closely confined in prison under the sentence of a British court; and whereas an earnest and profound desire, evidenced by resolutions of State legislatures, and petitions numerously signed and addressed to Congress, is entertained by a large and respectable portion of the people of the United States that he should be speedily released: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, requested to take such steps as in his judgment may tend to obtain the pardon or release of the said Edward O'M. Condon from imprisonment.

Approved July 7, 1876.

No. 95.

Mr. Pierrepont to Mr. Fish.

No. 35.] LEGATION OF THE UNITED STATES,
London, September 18, 1876. (Received October 2.)

SIR: Referring to your dispatch No. 18 of August 8, 1876, I have the honor to inclose a copy of the correspondence which has taken place between myself and Lord Derby in relation to the case of Edward O'M. Condon, imprisoned under the sentence of a British court, for whom the President of the United States was requested by a joint resolution of Congress to take such steps as might tend to obtain a pardon or release.

I have, &c.,

EDWARDS PIERREPONT.

[Inclosure 1 in No. 35.]

Mr. Pierrepont to Lord Derby.

LEGATION OF THE UNITED STATES,
London, August 23, 1876.

MY LORD: I have the honor to call your lordship's attention to a joint resolution of the Congress of the United States approved July 7, 1876, of which I inclose a copy.

As the facts have been represented to me, one Edward O'M. Condon, a citizen of the United States, was charged with complicity in an attack made upon the police at Manchester, in September, 1867, in an attempt to rescue certain Fenian prisoners. He was tried with several others, and, under the name of "Shore," convicted of murder and sentenced to be executed. Through the interposition of Mr. Adams, at that time minister of the United States, his sentence was commuted to imprisonment for life, and he is still in prison. Although request for further clemency was made of the British authorities more than four years since, without securing a favorable response, the President, nevertheless, under the circumstances, and considering the length of the imprisonment that Condon has already endured, deems it his duty to ask the attention of Her Majesty's government again to the case.

It is stated that Condon rendered efficient service to the Army of the United States during the late war; that he resided in the city of Cincinnati; that while there he was not connected with any Fenian association; and that he visited Europe solely to recover property bequeathed to his father. If he was led astray after he arrived in England, it is urged that his long imprisonment for nearly nine years may sufficiently atone for his alleged crime.

Either from a belief in his innocence or from sympathy arising from other causes, his case has excited great interest in the United States and given rise to frequent representations to the Government and requests for its aid to obtain his release. During the session of Congress which has just adjourned, the subject has been brought to the attention of the Government through many channels, by reason of which the joint resolution of which a copy is inclosed has been passed.

I am directed by the Secretary of State to invite your lordship's attention to this resolution, and to say that the President indulges the hope that Her Majesty's government may find it consistent to take such steps as will accomplish the purpose of the resolution and allow the prisoner to be released.

I have the honor to be, with the highest consideration, my lord, your most obedient, humble servant,

EDWARDS PIERREPONT.

The Right Honorable the EARL OF DERBY, &c.

[Inclosure 2 in No. 35.]

Lord Derby to Mr. Pierrepont.

FOREIGN OFFICE, *August* 30, 1876.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d instant, calling my attention to a joint resolution, a copy of which you inclose, of the Congress of the United States, having for its object the pardon and release from prison of one

Edward O'M. Condon, who is undergoing his sentence in this country for participation in the attack made upon the police at Manchester in September, 1867, in an attempt to rescue certain Fenian prisoners; and I have to state to you, in reply, that I have referred your letter to Her Majesty's secretary of state for the home department.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

DERBY.

The Hon. EDWARDS PIERREPONT.

[Inclosure 3 in No. 35.]

Lord Derby to Mr. Pierrepont.

FOREIGN OFFICE, *September* 14, 1876.

SIR: With reference to my letter of the 30th ultimo, I have the honor to acquaint you that Her Majesty's secretary of state for the home department, to whom your note of the 23d ultimo, respecting the case of the convict Condon, was referred, has informed me that he is unable to give any other answer to it than that which was returned by the prime minister in the House of Commons on the 23d of May last, to the inquiry addressed to him as to the intentions of the government in regard to the Fenian prisoners.

That answer was to the effect that Her Majesty's government were not at present prepared to advise Her Majesty to extend her clemency to those prisoners.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

DERBY.

The Hon. EDWARDS PIERREPONT.

No. 96.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *March* 13, 1876. (Received March 14.)

SIR: In compliance with an instruction which I have received from the Earl of Derby, I have the honor to transmit herewith, for the information of the Government of the United States, a copy of a dispatch addressed to Lord Derby by Her Majesty's minister at Guatemala, and of its inclosures, in regard to the question of Her Majesty's consul at Grey Town being authorized to act as agent for the Mosquito chief, in connection with the arrears of subsidy due by the governments of Nicaragua and Honduras.

I have, &c.,

EDW'D. THORNTON.

[Inclosure.]

No. 126.] GUATEMALA, *December* 31, 1875.

MY LORD: I have had the honor to receive your lordship's dispatch, No. 55, of the 13th November, by which I learn that your lordship has authorized Her Majesty's consul at Grey Town to act as agent for the Mosquito chief in regard to the arrears of subsidy due by the governments of Nicaragua and Honduras. Mr. Consul Gollan has also written to me intimating that he would prefer that the announcement of his appointment should be made to both governments by this legation.

I have accordingly addressed to the two governments the respective notes of which I have the honor to transmit copies. Your lordship will see from these notes that I have taken this opportunity, which seemed to me to be a fitting one, to address to both governments a few words of warning in the sense of your lordship's dispatch No. 33, of the 23d July.

I have, at the same time, addressed to Mr. Consul Gollan dispatch of which I have likewise the honor to inclose a copy.

In the absence of the United States minister, I am prevented from acquainting him with the step I am taking, a course which I should otherwise most certainly have pursued, not only because Mr. Williamson has shown a friendly readiness to use his influence to persuade the Nicaraguan government to act up to her treaty engagements and thereby avoid the possibility of trouble with Her Majesty's government, but also because I know it to be your lordship's wish that nothing should arise to disturb the perfect understanding and confidence which exists between Her Majesty's government and that of the United States on all questions connected with Central America.

I have, &c.,

SIDNEY LOCOCK.

The EARL OF DERBY,
&c., &c., &c.

[Inclosure 1 in inclosure.]

BRITISH LEGATION,
Guatemala, December 31, 1875.

SIR: I do myself the honor officially to inform your excellency that Her Majesty's consul at Grey Town, Mr. A Gollan, has been appointed by the chief of the Mosquito reserve as his agent, duly empowered by him to receive on his behalf from the Nicaraguan government the arrears due to him under the treaty of Managua with Great Britain, and has received authority from Her Majesty's government to act in that capacity.

As the government of Nicaragua have recently manifested a wish to disembarrass themselves of the claim which the Mosquito chief has against them, on account of the arrears so long due to him under the treaty of Managua, they will probably learn with satisfaction of the appointment of an agent of the official position and character of Mr. Gollan, through whom they can effect their payment to the Mosquito chief in all security.

The last two communications on the subject of the arrears due to the Mosquito chief, which were addressed by my predecessor in 1872 and 1873 to the government of Nicaragua, not only having failed to meet with the attention to which representations on such a subject from Her Majesty's government were entitled, but having further been suffered to remain without even the acknowledgment which is customary in diplomatic correspondence between foreign governments and their agents, I find myself placed under the necessity of requesting that your excellency will be so good as to honor me with some reply to, or acknowledgment of, the present communication.

It may be well, in order to prevent any further misconception, that I should remind your excellency that, inasmuch as the payments to which these communications refer were promised by the Nicaraguan government, in formal treaty engagement entered into with Great Britain, as one of the conditions on which Great Britain relinquished the protectorate which, before the date of the treaty of Managua, she had exercised over the Mosquito territory, Her Majesty's government possess an incontestable right to see that the stipulations of that treaty are faithfully carried out, and that if it becomes evident, either from the neglect with which their representations are treated or from other circumstances, that Nicaragua is not making proper effort to redeem her pledges, they may find themselves compelled, however reluctantly, to interfere in order to obtain the fulfillment of those engagements.

I avail, &c.,

SIDNEY LOCOCK.

His Excellency DON TOMAS AYON, *&c., Nicaragua.*

[Inclosure 2 in inclosure.]

BRITISH LEGATION,
Guatemala, December 31, 1875.

SIR: In consequence of instructions I have received from Her Majesty's secretary of state for foreign affairs, I have the honor to inform you that Mr. Alexander Gollan, who holds the office of Her Majesty's consul at Grey Town, has been formally appointed agent for the chief of the Mosquito territory, to receive on his behalf the arrears due to him by the government of Honduras under the treaty of Comayagua, and has been authorized by Her Majesty's government to undertake the agency.

It is not my intention at the present moment to renew, through your excellency, to the governor of Honduras applications which have hitherto not only proved useless, but which have on the most recent occasions met with a disregard from which Her Majesty's government had a right to expect that courtesy alone would have protected them.

It should, however, be borne in mind that the payments to the Mosquito chief were promised by the Honduras government, in formal treaty engagement, as one of the conditions on which Great Britain relinquished her protectorate over the Mosquito territory. It is the unquestionable right of Her Majesty's government to see that those treaty stipulations are not so lightly disregarded by the government of Honduras as they hitherto have been; and although it is not the intention of Her Majesty's government at this moment to take any action in the matter, the time may come when they may feel themselves compelled, however reluctantly, to interfere, in order to obtain the fulfillment of those treaty engagements which Honduras contracted toward them.

I avail, &c.,

SIDNEY LOCOCK.

His Excellency Don A. ZURINGA, &c., *Honduras.*

[Inclosure 3 in inclosure.]

GUATEMALA, *December* 31, 1875.

SIR: I received a few days ago a dispatch from the Earl of Derby informing me that you had been authorized by his lordship to accept the agency which had been offered to you by the chief of the Mosquito territory, for the purpose of receiving the arrears of subsidy due to him by the governments of Nicaragua and Honduras, but that you had been instructed to be careful to take no step in that capacity which might hereafter hamper you in that of Her Majesty's consul.

I have now to inform you that I have this day officially communicated the fact of your appointment and of its approval to the governments of Nicaragua and Honduras.

As far as the latter is concerned, there is too much reason to fear that it will be long before you are invited to receive any payment on this account; but if the government of Nicaragua are really in earnest in their wish to come to a settlement with the chief, it is probable that they will either directly or through their authorities at Grey Town enter into communication with you shortly on the subject.

In such case you will of course be careful to carry out the instructions of Lord Derby; and, with this object, I would suggest that in treating with the authorities on this subject, it may be well that you should limit your action to that of simple agent for this particular purpose of the Mosquito chief, and that you should as far as possible refuse discussion as to his recent proceedings, bearing in mind that, whatever may be his present conduct, it can in no way serve as an excuse or palliation to Nicaragua in her past neglect to execute treaty engagements formally entered into by her with Great Britain.

I am, &c.,

SIDNEY LOCOCK.

A. GOLLAN, ESQ., &c.,
Grey Town.

No. 97.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *April* 13, 1876. (Received April 14.)

SIR: I have the honor to acquaint you that Her Majesty's government have had under their consideration communications which they have received from various sources as to the improvement of the existing regulations for the prevention of collisions at sea.

A committee, which was appointed with the view of considering the whole question of the rule of the road at sea, having sat from time to time, has laid before Her Majesty's government a report and draft regulations, which have been approved by the board of admiralty, Trinity House, and board of trade, and I am instructed by the Earl of Derby to transmit to you, for the consideration of the Government of the United States, copies of the report and regulations in question.

I have the honor to be, with the highest consideration, sir, your obedient servant,

EDW'D THORNTON.

[Inclosure.]

Copy of the report of the committee appointed by the admiralty, the board of trade, and the Trinity House, to consider the regulations for preventing collisions at sea, (rule of the road at sea,) and of the amendments proposed by them, together with a copy of the letter addressed by the board of trade to the foreign office upon the subject, (in continuation of parliamentary paper No. 353, of session 1874.)

T. H. FARRER.

BOARD OF TRADE, *February* 22, 1876.

No. 1.

(M. 10,272.)

Report of committee appointed by the admiralty, the board of trade, and the Trinity House, to consider the regulations for preventing collisions at sea.

We have carefully considered the various suggestions which are contained in the documents published in parliamentary paper No. 353, of 1874, and especially alterations in the existing rules proposed by the French government, and we have also through the board of trade obtained information from the masters of transatlantic steamers concerning a system of sound-signals used by steamers on the coasts and in the rivers of the United States. We have unanimously agreed to recommend the accompanying amended draft regulations in lieu of those now in force. The consent of other nations will, of course, be necessary.

It will be observed that our amendments do not involve any serious or fundamental alteration of the existing rules. We consider it of great importance that these rules which are now well understood should continue unaltered in substance; but there are some points in which they require elucidation, and there are other points on which our own experience and the suggestions above referred to have shown that additions are necessary, and it is for these that we have endeavored to provide.

The principal amendments are the following:

Art. 3, par. (*a*), provision is made for placing the white light of steamers not only at the mast-head but at any proper place before the mast. This is rendered necessary by legal opinions as to the meaning of the present regulations.

Art. 5, which provides signals for ships laying telegraph cables or otherwise not under command.

Art. 9, which removes a doubt as to the lights to be carried by pilot vessels.

Art. 10, which provides signal-lights for drift-net fishers and trawlers, and puts an end to the conflict between the existing regulations and those annexed to the sea-fisheries act, 1868.

Art. 11, which makes it clearly lawful for overtaken vessels to show a light astern. This article is suggested in consequence of doubts as to the legality of so doing having been expressed in cases recently heard by the high court of admiralty and the court of appeal.

Art. 12, which, besides defining sound-signals more distinctly, and shortening the intervals at which they are to be made, requires a sailing-ship in fog to denote her tack by her fog-horn.

Art. 14, which is rewritten so as to make the meaning more distinct.

Art. 15, in which, in order to meet the practice of other nations, words are added to make it clear that the English term "port helm" is equivalent to altering the course of the ship to starboard, and *vice versa*.

Art. 19, by which, following a practice successfully adopted in the United States, steamers are enabled to indicate to an approaching ship the direction they are about to take.

Art. 21, which adopts the general statutory rule that existed before 1862 for steamships navigating narrow channels, viz, that each ship shall keep to the starboard side of the mid-channel.

Art. 25, which reserves special and local rules lawfully made by harbor authorities.

The remainder of the alterations are verbal merely.

We annex to our report copies—

1. Of the rules as we propose to amend them.
2. Of the present rules unaltered.
3. Of the information we have received concerning sound-signals in the United States.

F. ARROW.
G. A. BEDFORD.
F. J. O. EVANS.
T. H. FARRER.
T. GRAY.
D. MURRAY.
H. C. ROTHERY.
C. G. WELLER.

[Inclosure 1 in report.]

Draft of regulations for preventing collisions at sea, with amendments proposed by the committee appointed by the admiralty, board of trade, and Trinity House, July, 1875.

PRELIMINARY.

Art. 1. In the following rules every steamship which is under sail and not under steam is to be considered a sailing ship; and every steamship which is under steam, whether under sail or not, is to be considered a ship under steam.

RULES CONCERNING LIGHTS.

Art. 2. The lights mentioned in the following articles, numbered 3, 4, 5, 6, 7, 8, 9, and 10, and no others, shall be carried in all weathers, from sunset to sunrise.

Art. 3. A seagoing steamship when under way shall carry:

(*a.*) At, or in front of, but not lower than, the foremast head, a bright white light, so constructed as to show an uniform and unbroken light over an arc of the horizon of 20 points of the compass; so fixed as to throw the light 10 points on each side of the ship, viz, from right ahead to 2 points abaft the beam on either side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles.

(*b.*) On the starboard side, a green light so constructed as to show an uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(*c.*) On the port side, a red light, so constructed as to show an uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(*d.*) The said green and red side-lights shall be fitted with inboard screens, projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Art. 4. A steamship, when towing another ship, shall, in addition to her side-lights, carry two bright white mast-head lights in a vertical line one over the other, not less than three feet apart, so as to distinguish her from other steamships. Each of these mast-head lights shall be of the same construction and character as the mast-head lights which other steamships are required to carry.

Art. 5. The following ships, viz:

A steamship laying or picking up a telegraph cable;

A steamship which, in consequence of accident to her machinery or steering-gear, or for any other reason, is not under command;

shall by day carry in a vertical line one over the other, not less than three feet apart, in front of but not lower than her foremast-head, three black balls or shapes, each two feet in diameter; and shall at night carry in place of her mast-head light three red lights in globular lanterns, each not less than ten inches in diameter, in a vertical line one over the other, not less than three feet apart.

These shapes and lights are to be taken by approaching ships as signals that the ship using them is not under command, and cannot therefore get out of the way.

The above ships, when not making any way through the water, shall not carry the side-lights, but when making way shall carry them.

Art. 6. A sailing-ship under way, or being towed, shall carry the same lights as are provided by article 3 for a steamship under way, with the exception of the white mast-head light, which she shall never carry.

Art. 7. Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for use; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with proper screens.

Art. 8. A ship, whether a steamship or a sailing-ship, when at anchor shall carry, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light, in a globular lantern of not less than eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all round the horizon, and at a distance of at least one mile.

Art. 9. A sailing pilot-vessel, when engaged in supplying or waiting for pilots, shall not carry the lights required for other sailing-vessels, but shall carry a white light at the mast-head, visible all round the horizon; and shall also exhibit a flare-up light at short intervals, which shall never exceed fifteen minutes.

A sailing pilot-vessel, when not engaged in supplying or waiting for pilots, shall carry colored side-lights similar to those of other sailing-ships under way.

Art. 10. (*a.*) Open fishing-boats and other open boats shall not be required to carry the side-lights required for other vessels; but every such boat shall in lieu thereof have ready at hand a lantern with a green slide on the one side and a red slide on the other side; and on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side.

(*b.*) A fishing-vessel and open boat, when at anchor, shall exhibit a bright white light.

(*c.*) A fishing-vessel, when employed in drift-net fishing, shall carry on one of her masts two red lights in a vertical line one over the other, not less than three feet apart.

(*d.*) A trawler at work, shall carry on one of her masts two lights in a vertical line one over the other, not less than three feet apart, the upper light red, and the lower green, and shall also either carry the side-lights required for other vessels, or if the side-lights cannot be carried, have ready at hand the colored lights as provided in article 7, or a lantern with a red and a green slide as described in paragraph (*a*) of this article.

(*e.*) Fishing-vessels and open boats shall not be prevented from using a flare-up in addition, if they desire to do so.

(*f.*) The lights mentioned in this article are substituted for those mentioned in the 12th, 13th, and 14th articles of the convention scheduled to the sea-fisheries act, 1868.

Art. 11. Nothing in the above articles shall prevent a ship which is being overtaken by another from waving a light astern to such last-mentioned ship, in order to prevent collision.

Rules concerning fog, &c., signals.

Art. 12. A steamship shall be provided with a steam-whistle so placed that the sound may not be intercepted by any obstructions, and with an efficient fog-horn to be sounded by a bellows or other mechanical means, and also with an efficient bell. A sailing-ship shall be provided with a similar fog-horn and bell.

In fog, mist, or falling snow, whether by day or night, the signals described in this article shall be used as follows: that is to say,

(*a.*) A steamship under way shall make with her steam-whistle, at intervals of not more than two minutes, a prolonged blast.

(*b.*) A sailing-ship under way shall make with her fog-horn, at intervals of not more than two minutes, when on the starboard tack one blast, when on the port tack two blasts, and when with the wind abaft the beam three blasts.

(*c.*) A steamship and a sailing-ship when not under way shall, at intervals of not more than two minutes, ring the bell.

Art. 13. Every ship, whether a sailing-ship or steamship, shall, in fog, mist, or falling snow, go at a moderate speed.

Steering and sailing rules.

Art. 14. When two sailing-ships are approaching one another so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, viz:

(*a.*) A ship which is running free shall keep out of the way of a ship which is close-hauled.

(*b.*) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack.

(*c.*) When both are running free with the wind on different sides, the ship which has the wind on the port side shall keep out of the way of the other.

(*d.*) When both are running free with the wind on the same sides, the ship which is to windward shall keep out of the way of the ship which is to leeward.

(*e.*) A ship which has the wind aft shall keep out of the way of the other ship.

Art. 15. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, each shall put her helm to port; or in other words, shall alter her course to starboard, so that each may pass on the port side of the other.

This article only applies to cases where ships are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two ships which must, if both keep on their respective courses, pass clear of each other.

The only cases to which it does apply are, when each of the two ships is end on, or nearly end on, to the other; in other words, to cases in which, by day, each ship sees the masts of the other in a line, or nearly in a line, with her own; and by night, to cases in which each ship is in such a position as to see both the side-lights of the other.

It does not apply by day, to cases in which a ship sees another ahead crossing her own course; or by night, to cases where the red light of one ship is opposed to the red light of the other; or where the green light of one ship is opposed to the green light of the other; or where a red light without a green light, or a green light without a red light, is seen ahead; or where both green and red lights are seen anywhere but ahead.

Art. 16. If two ships under steam are crossing, so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Art. 17. If two ships, one of which is a sailing-ship, and the other a steamship, are proceeding in such directions as to involve risk of collision, the steamship shall keep out of the way of the sailing-ship.

Art. 18. Every steamship, when approaching another ship, so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse.

Art. 19. A steamship under way may indicate to another ship the direction she proposes to take by the following signals on her steam-whistle, viz:

One short blast to mean "I am about to port my helm;" in other words, "I am about to alter my course to starboard."

Two short blasts to mean "I am about to starboard my helm;" in other words, "I am about to alter my course to port."

Three short blasts to mean "I am going full speed astern."

The use of these signals is optional; but if they are used, the course of the ship must be in accordance with the signal made.

They are not to be used in fog, mist, or falling snow, when the other ship is not visible.

This article does not authorize any departure from the steering and sailing rules contained in these regulations

Art. 20. Every vessel overtaking any other vessel shall keep out of the way of the last-mentioned vessel.

Art. 21. In narrow channels every steamship shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such ship.

Art. 22. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course.

Art. 23. In obeying and construing these rules, due regard shall be had to all dangers of navigation; and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

Art. 24. Nothing in these rules shall exonerate any ship, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Art. 25. Nothing in these rules shall interfere with the operation of a special rule, duly made by lawful authority, relative to the navigation of any harbor, river or inland navigation.

[Inclosure 2, in report.]

INTERNATIONAL STEERING AND SAILING RULES.

(*Reprinted from the order in council of the 9th January*, 1863.)

REGULATIONS FOR PREVENTING COLLISIONS AT SEA, &C.

Preliminary.

Art. 1. In the following rules every steamship which is under sail and not under steam is to be considered a sailing-ship; and every steamship which is under steam, whether under sail or not, is to be considered a ship under steam.

Rules concerning lights.

Art. 2. The lights mentioned in the following articles, numbered 3, 4, 5, 6, 7, 8, and 9, and no others, shall be carried in all weathers, from sunset to sunrise.

Lights for steamships.

Art. 3. Sea-going steamships when under way shall carry:

(*a.*) *At the foremast-head*, a bright white light, so fixed as to show a uniform and unbroken light over an arc of the horizon of 20 points of the compass; so fixed as to throw the light 10 points on each side of the ship, viz, from right ahead to 2 points

abaft the beam on either side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles.

(*b.*) *On the starboard side*, a green light, so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass; so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(*c.*) *On the port side*, a red light, so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass; so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(*d.*) The said green and red side-lights shall be fitted with inboard screens, projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Lights for steam-tugs.

Art. 4. Steamships, when towing other ships, shall carry two bright white mast-head lights vertically, in addition to their side-lights, so as to distinguish them from other steamships. Each of these mast-head lights shall be of the same construction and character as the mast-head lights which other steamships are required to carry.

Lights for sailing-ships.

Art. 5. Sailing-ships under way, or being towed, shall carry the same lights as steamships under way, with the exception of the white mast-head lights, which they shall never carry.

Exceptional lights for small sailing-vessels.

Art. 6. Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for instant exhibition; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with suitable screens.

Lights for ships at anchor.

Art. 7. Ships, whether steamships or sailing-ships, when at anchor in roadsteads or fairways, shall exhibit, where it can best be seen, but at a height not exceeding 20 feet above the hull, a white light, in a gobular lantern of eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all around the horizon, and at a distance of at least one mile.

Lights for pilot-vessels.

Art. 8. Sailing pilot-vessels shall not carry the lights required for other sailing-vessels, but shall carry a white light at the mast-head, visible all round the horizon, and shall also exhibit a flare-up light every 15 minutes.

Lights for fishing vessels and boats.

Art. 9. Open fishing-boats and other open boats shall not be required to carry the side-lights required for other vessels; but shall, if they do not carry such lights, carry a lantern having a green slide on the one side and a red slide on the other side; and, on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side.

Fishing-vessels and open boats when at anchor, or attached to their nets and stationary, shall exhibit a bright white light.

Fishing-vessels and open boats shall, however, not be prevented from using a flare-up, in addition, if considered expedient.

Rules concerning fog-signals.

Art. 10. Whenever there is fog, whether by day or night, the fog-signals described below shall be carried and used, and shall be sounded at least every five minutes, viz:

(*a.*) Steamships under way shall use a steam-whistle placed before the funnel, not less than eight feet from the deck;

(*b.*) Sailing-ships under way shall use a fog-horn;

(*c.*) Steamships and sailing-ships when not under way shall use a bell.

Two sailing-ships meeting.

ART. 11. If two sailing-ships are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Two sailing-ships crossing.

ART. 12. When two sailing-ships are crossing so as to involve risk of collision, then, if they have the wind on different sides, the ship with the wind on the port side shall keep out of the way of the ship with the wind on the starboard side; except in the case in which the ship with the wind on the port side is close hauled and the other ship free, in which case the latter ship shall keep out of the way; but if they have the wind on the same side, or if one of them has the wind aft, the ship which is to windward shall keep out of the way of the ship which is to leeward.

Two ships under steam meeting.

ART. 13. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Two ships under steam crossing.

ART. 14. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Sailing-ship and ship under steam.

ART. 15. If two ships, one of which is a sailing ship, and the other a steamship, are proceeding in such directions as to involve risk of collision, the steamship shall keep out of the way of the sailing-ship.

Ships under steam to slacken speed.

ART. 16. Every steamship, when approaching another ship so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse; and every steamship shall, when in a fog, go at a moderate speed.

Vessels overtaking other vessels.

ART. 17. Every vessel overtaking any other vessel shall keep out of the way of the said last-mentioned vessel.

Construction of articles 12, 14, 15, and 17.

ART. 18. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course, subject to the qualifications contained in the following article.

Proviso to save special cases.

ART. 19. In obeying and construing these rules, due regard must be had to all dangers of navigation; and due regard must also be had to any special circumstances which may exist in any particular case rendering a departure from the above rules necessary in order to avoid immediate danger.

No ship, under any circumstances, to neglect proper precautions.

ART. 20. Nothing in these rules shall exonerate any ship, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

ORDER IN COUNCIL EXPLAINING ARTICLES 11 AND 13 OF THE RULES FOR PREVENTING COLLISIONS AT SEA.

At the court at Osborne House, Isle of Wight, the 30th day of July, 1868.

Present—The Queen's most Excellent Majesty in council.

Whereas, by "The merchant shipping act amendment act, 1862," it was enacted, that on and after the 1st day of June, 1863, or such later day as might be fixed for the purpose by order in council, the regulations contained in the table marked C in the schedule to the said act should come into operation and be of the same force as if they were enacted in the body of the said act; but that Her Majesty might from time to time, on the joint recommendation of the admiralty and the board of trade, by order in council, annul or modify any of the said regulations, or make new regulations in addition thereto or in substitution therefor; and that any alterations in, or additions to, such regulations made in manner aforesaid should be of the same force as the regulations in the said schedule;

And whereas, by the same act, it was further provided, that whenever it should be made to appear to Her Majesty that the government of any foreign country is willing that the regulations for preventing collision contained in table C in the schedule to the said act, or such other regulations for preventing collision as are for the time being in force under the said act, should apply to the ships of such country when beyond the limits of British jurisdiction, Her Majesty might, by order in council, direct that such regulations shall apply to the ships of the said foreign country, whether within British jurisdiction or not; and it was further provided by the said act, that whenever an order in council had been issued applying any regulation made by or in pursuance of the said act to the ships of any foreign country, such ships should, in all cases arising in any British court, be deemed to be subject to such regulation, and should, for the purpose of such regulation, be treated as if they were British ships;

And whereas by an order in council made in pursuance of the said recited act, and dated the 9th day of January, 1863, Her Majesty was pleased to direct: First, that the regulations contained in the schedule to the said act should be modified by the substitution for such regulations of certain regulations appended to the said order. Secondly, that the said regulations appended to the said order should, on and after the 1st day of June, 1863, apply to French ships, whether within British jurisdiction or not;

And whereas by several orders in council subsequently made, Her Majesty has been pleased to direct that the regulations appended to the said order of the 9th of January, 1863, shall apply to ships of the following countries, whether within British jurisdiction or not, that is to say:

Austria.	Mecklenburg-Schwerin.
Argentine Republic.	Morocco.
Belgium.	Netherlands.
Brazil.	Norway.
Bremen.	Oldenburg.
Chili.	Peru.
Denmark Proper.	Portugal.
Equator, Republic of the.	Prussia.
France.	Roman States.
Great Britain.	Russia.
Greece.	Schleswig.
Hamburgh.	Spain.
Hanover.	Sweden.
Hawaiian Islands.	Turkey.
Hayti.	United States, sea-going ships.
Italy.	United States, inland waters.
Lubeck.	Uruguay.

And whereas articles 11 and 13 of the said regulations appended to the said recited order of the 9th of January, 1863, are as follows, that is to say:

"ART. 11. If two sailing-ships are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

"Art. 13. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other;"

And whereas there has been doubt or misapprehension concerning the effect of the said two articles;

And whereas the admiralty and the board of trade have jointly recommended to Her Majesty to make the following additions to the said regulations, for the purpose of explaining the said recited articles and for removing the said doubt and misapprehension:

Now, therefore, Her Majesty, by virtue of the powers vested in her by the said recited act, and by and with the advice of her privy council, is pleased to make the following additions to the said regulations, by way of explanation of the said two recited articles, that is to say:

The said two articles, numbered 11 and 13 respectively, only apply to cases where ships are meeting end on, or nearly end on, *in such a manner as to involve risk of collision.* They consequently do not apply to two ships which must, if both keep on their respective courses, pass clear of each other.

The only cases in which the said two articles apply are when each of the two ships is end on, or nearly end on, to the other; in other words, to cases in which, *by day*, each ship sees the masts of the other in a line, or nearly in a line, with her own; and, *by night*, to cases in which each ship is in such a position as to see both the side-lights of the other.

The said two articles do not apply, *by day*, to cases in which a ship sees another *ahead* crossing her own course; or, *by night*, to cases where the red light of one ship is opposed to the red light of the other; or where the green light of one ship is opposed to the green light of the other; or where a red light without a green light, or a green light without a red light, is seen ahead; or where both green and red lights are seen anywhere but ahead.

Inclosure 3 *in report.*—(M. 2626–75.)

Letter addressed by board of trade to certain ship-owners, relating to the adoption of a system of sound-signals similar to that used in the United States:

BOARD OF TRADE, WHITEHALL GARDENS, *February* 19, 1875.

SIR: I am directed by the board of trade to state that a question has been raised whether it is desirable to establish a system of sound-signals, by which ships shall indicate what they are doing or proposing to do; especially in fogs and in narrow channels.

The accompanying draft-rule has been prepared in this office for the purpose of illustrating and embodying this suggestion.

As it appears that a similar system is in use in United States waters, the board of trade desire me, in sending the inclosed copy to you, to request you to be good enough to obtain from the masters and officers of your steamships engaged in trading to the United States an expression of opinion on the following points:

1. Whether they have experience of the system used in the United States; what is that system; and does it, in their opinion, conduce to safety.
2. Whether it is easy of application and interpretation.
3. Whether any similar system could with advantage be adopted in British waters.
4. If so, whether the system propounded in the inclosed will be sufficient; and, if not,
5. Whether they have any more simple or effective system to suggest; and
6. Whether, looking to American experience, the system of signaling by sound should be confined to foggy and thick weather, or whether it should be extended to narrow channels in all weathers.

I am, &c.,

T. H. FARRER.

Steamships shall be provided with a steam-whistle, placed before the funnel, and not less than eight feet above the deck, and with an efficient fog-horn and bell. Sailing-ships shall be provided with an efficient fog horn and bell.

In fog, mist or falling snow, whether by day or night, the fog-signals described above shall be used as follows, that is to say:

(*a.*) Steamships under way shall make a prolonged blast with their steam-whistles once in every three minutes.

(*b.*) Sailing-ships under way shall make a prolonged blast with their fog-horns once in every three minutes.

(*c.*) Steamships and sailing-vessels, when not under way, shall ring a bell at least once in every three minutes.

The above signals are compulsory.

In addition, the following signals may also be made by steam-whistles and fog-horns:

One short blast to mean, "I am porting."

Two short blasts to mean, "I am starboarding."

Three short blasts to mean, "Take care; I am taking care."

Four short blasts to mean, in the case of a steamer, "I am going full speed astern;" if a sailing-ship, "I am in stays."

The use of these last-mentioned signals by short blasts is optional and not compulsory, but, if they are used, the conduct of the ship must be in accordance with the signal made.

REPLIES.

(M. 3290.)

Messrs. Flinn, Main & Montgomery to Board of Trade.

HARVEY BUILDINGS, 24 JAMES STREET, LIVERPOOL,
February 26, 1875.

DEAR SIR: In reply to your communication respecting a system of sound-signals, we have to reply as follows:

Query No. 1. The American system undoubtedly conduces to safety.
2. It is easy of application.
3. It should be adopted in British waters.
4. The system propounded is very good.
5. ———
6. The sound-signals would be of great advantage in foggy, thick, and snowy weather, and might be, probably, extended with advantage to narrow channels in all weathers. One of our captains thinks all the rules in the draft should be compulsory; it is probably better as it stands.

Captain Mellin, of steamship Memphis, states that the American steam-whistle, having one whistle within another, and giving a treble sound, is the best. It is also inexpensive.

Yours, &c.,

FLINN, MAIN & MONTGOMERY.

The ASSISTANT SECRETARY
Marine Department, Board of Trade.

(M. 3291.)

Messrs. G. & J. Burns to Board of Trade.

GLASGOW, *February* 23, 1875.

SIR: We duly received your letter of the 19th instant on the subject of sound-signals, and in reply we have to say that any good and simple arrangement whereby vessels would be guided in fog would receive our approval.

Our captains have had some experience in the United States of the system of long and short whistle-blasts as indicating the action of the vessel making them, and to some extent that system tends to facilitate the navigation of rivers; but we beg to submit for consideration the plan originated by an officer of one of our steamships as being both simple and effective, viz:

One blast to signify, "I am steering a course between north and east."
Two blasts to signify, "I am steering a course between east and south."
Three blasts to signify, "I am steering a course between south and west."
Four blasts to signify, "I am steering a course between west and north."

Any attempt to define by sound courses more exact than these would, we fear, involve unsatisfactory complications; but, altogether, we can hardly say that we are prepared to recommend any particular system for adoption in British waters.

We are, &c.,

G. & J. BURNS.

The SECRETARY *Board of Trade.*

(M. 3292.)

Mr. Henry A. Gadsden to Board of Trade.

THE SOUTH WALES ATLANTIC STEAMSHIP COMPANY, (LIMITED,)
1 *Dock Chambers, Cardiff, February* 23, 1875.

SIR: In reply to your letter of the 19th instant, I beg to say that I laid your communication before the commanders of our steamers, and their replies to your various questions I have the pleasure to inclose.

I am, &c.,

HENRY A. GADSDEN, *Manager.*

The ASSISTANT SECRETARY
Marine Department, Board of Trade.

[Inclosure.]

SOUTH WALES ATLANTIC STEAMSHIP COMPANY, (LIMITED,)
Cardiff, February 23, 1875.

SIR: In reply to your communication of the 19th instant, addressed to the secretary of this company, we, the undersigned commanders of the steamships Glamorgan and Pembroke, taking your questions in the order you present them, beg to state we are acquainted with the sound-signals used on shipboard in the United States, and consider they greatly conduce to safety.

1. The draft-rule in your letter of the 19th instant virtually embodies the system in use in the United States, and we believe its adoption would be a great benefit to the royal navy and mercantile marine.
2. The application and interpretation could not be more easy or simple.
3. Most decidedly, and the more intricate the navigation the more advantageous it would be.
4. Quite sufficient.
5. No.
6. We cannot see any reason why it should be restricted to foggy weather; to do so would lessen its advantages. We have now occasionally to vary from the usual custom of porting according to article 19, and it certainly would greatly relieve anxiety and conduce to safety if we could be assured by sound that an approaching ship appreciated our position and intentions. Sounds should indicate intended movements as well in clear as in foggy weather, and particularly in narrow waters.

In conclusion, we respectfully suggest that the vessel first signalizing by sounds should have the right of way. This is the custom in the United States.

We are, &c.,

JOSEPH LAYBOURNE,
Commander Steamship Glamorgan.
H. C. WILLIAMS,
Commander Steamship Pembroke.

The ASSISTANT SECRETARY
Board of Trade, Marine Department.

(M. 3294.)

Messrs. D. & C. MacIver to Board of Trade.

BRITISH AND NORTH AMERICAN ROYAL MAIL STEAM-PACKET COMPANY,
Office 8 *Water Street, Liverpool, February* 24, 1875.

SIR: In reply to your communication of the 19th instant, we beg to say that we have referred the matter to Messrs. Burns, of Glasgow, and that their reply to a similar communication from you sufficiently expresses our views upon the subject.

Yours, &c.,

D. & C. MACIVER,
Pro E. MACIVER, JR.

The SECRETARY *Board of Trade.*

(M. 4201.)

Mr. W. Inman to Board of Trade.

INMAN STEAMSHIP COMPANY, (LIMITED,) LATE
LIVERPOOL, NEW YORK AND PHILADELPHIA STEAMSHIP COMPANY,
Liverpool, March 16, 1875.

SIR: Referring to your letter of the 19th February, (M. 2626,) I have now the honor to inclose, in compliance therewith, the following reports, namely: From Mr. James Kennedy, master of the steamship City of Berlin; from Mr. Samuel Brooks, master of the steamship City of Richmond; from Mr. Robert Leitch, master of the steamship City of Chester; from Mr. John Mirehouse, master of the steamship City of Montreal; from Mr. Henry Tibbits, master of the steamship City of Paris; and from Mr. George S. Murray, master of the steamship City of Brooklyn; and I have only further to remark that these are all masters of great experience, who have been in this company's service for twenty years, and on whose opinions I place every reliance.

I am, &c.,

WILLIAM INMAN.

The ASSISTANT SECRETARY
Marine Department, Board of Trade.

[Inclosures.]

INMAN STEAMSHIP COMPANY, (LIMITED,) LATE
LIVERPOOL, NEW YORK AND PHILADELPHIA STEAMSHIP COMPANY,
Liverpool, March 8, 1875.

DEAR SIR: After a careful perusal of the document you sent me on the subject of "fog-signals," I beg to forward my opinion at your request.

In the United States of America the following signals, which I consider simple and effective, are invariably used during fogs and in narrow channels, and I think could with advantage be adopted in British waters, viz:

One short blast, "I am porting."

Two short blasts, "I am starboarding."

These are all that are used in the United States, but I would suggest another: three short blasts, "I am stopped;" if a sailing ship, "I am in stays," or "sails aback." These I consider sufficient; any more would make it confusing.

I remain, &c.,

JAMES KENNEDY.

E. INMAN, Esq.

LIVERPOOL, *February* 24, 1875.

DEAR SIR: Having read over copy of letter from the board of trade, dated 19th instant, I have the honor of submitting my opinion with regard to sound-signals.

I have had several years' experience of the system worked in American waters, namely: one short blast, "I am porting;" two short blasts, "I am starboarding."

These signals have been frequently used on board the company's steamers under my command when entering and leaving New York Harbor, and I am quite satisfied they have in many cases prevented collision with other vessels. In my opinion, nothing could be more simple of application, and I should be much pleased to see the plan adopted in British waters in all weathers.

In reference to the other signals, three short blasts, "I am taking care," and four short blasts, "I am going full speed astern," my opinion is that if these signals were adopted they would have a tendency to complication, and to a certain extent do away with the simplicity of the two first signals. I would also respectfully submit that if the "port" and "starboard" signal is attended to, the two latter signals will never be required.

I have, &c.,

SAMUEL BROOKS,
R. M. S. S. City of Richmond.

ERNEST S. INMAN, Esq.,
22 Water Street, Liverpool.

WATER STREET, LIVERPOOL, *March* 2, 1875.

SIR: I beg to offer the following as my answers and opinions on the questions continued in the letter from the secretary of the board of trade, dated 19th February last, and the draft-rules accompanying it.

1. I have had experience of the system of sound-signals used in the United States, but such experience is confined to signaling in narrow waters and clear weather. According to the rule in force in the States, one whistle signifies that the vessel is porting, and two that she is starboarding. In narrow waters and clear weather I consider such signaling conduces to safety.

2. The rule is very easy of application and interpretation.

3. It might be with advantage adopted in British waters.

4. The system propounded in the draft-rules would, I think, be sufficient, but I beg to offer the following suggestions thereon:

(*a.*) The steam-whistle should be sounded more than once in every three minutes when the vessel is under way. In these days of fast steamers two vessels meeting each other will pass over a mile and a half or more in the time named. I think the whistle should be sounded at least once in every minute. If the code of signals recommended by the rules is adopted, some regulation should be made as to the length of the blast under this rule to distinguish it from the other. At present two blasts are given immediately one after the other; and this is, I think, better than one prolonged blast.

(*b.*) There would be some difficulty in giving a prolonged blast on a sailing-ship with a fog-horn.

(*c.*) On steamers and sailing-ships at anchor the fog-bell should be sounded at least once in every half minute, especially in roadsteads or rivers, where ferry-boats are in the habit of plying.

I think the adoption of the remaining signals should be left to the discretion of the officer in charge.

5. I have no more simple or efficient system to suggest.

6. I consider the system of signaling by sound should not be extended to narrow channels in foggy and thick weather, as it is impossible to judge at all accurately from sound the position of the vessel sounding; but I think that its use in clear weather would conduce to safety.

Yours, &c.,

ROBERT LEITCH.

WILLIAM INMAN, Esq.

BIRKENHEAD GRAVING DOCK,
R. M. S. City of Montreal, March 1, 1875.

DEAR SIR: I am in receipt of your memorandum, with inclosure of (copy) letter from board of trade, dated 19th February, 1875, "about fog-signals by sound." I have respectfully to say in reply to—

Question 1. "Whether they (the captains or officers) have experience of the system used in the United States? What is that system, and does it conduce to safety?"

ANSWER. That ever since I have traded to the United States (a term of over twenty years) the American river-steamers have been in the habit in clear or comparatively clear weather only of "blowing one whistle, meaning port," and "two whistles, meaning starboard." The steamer that blows her whistle first has, so to speak, the "right of road." It is only A telling B to port. B should reply back with one whistle, meaning "I will port." Again, A blows two whistles, telling B to starboard. B should reply back with two whistles, meaning "I will starboard." This is only usage, and not compulsory. If B does not answer A, then B has not heard or does not concede "the right of road" to A. I think, on the whole, that the American system does conduce to safety in narrow channels, but only during clear or comparatively clear weather. In such places, in fog, I think it would tend to confusion and disaster if made imperative. Instance, a steamer, A, is coming into the Mersey, steering south, and another steamer, B, going out of the river Mersey, steering north. Both these steamers meeting, ("nearly end on,") blows one whistle each, meaning port. Now, another steamer going out of dock, heading northwest, and she hears two whistles on her port bow. Thinking that these two whistles proceed from one vessel only, the vessel out of dock "starboards her helm;" by that means runs a double chance of collision.

Q. *2. "Whether the American system is easy of application and interpretation?"

A. In fog, if compulsory, no; if optional, doubtful; in comparatively clear weather, yes.

Q. 3. "Whether any similar system could with any advantage be adopted in British waters?"

A. American system, yes.

Q. 4. "If so, whether the system propounded in the inclosed will be sufficient; and, if not, system propounded, namely: One short blast to mean, 'I am porting;' two short blasts to mean, 'I am starboarding;' three short blasts to mean, 'take care; I am taking care;' four short blasts to mean, in case of steamer, 'I am going full speed astern;' if sailing-ship, 'I am in stays.' The use of these last-mentioned signals by short blasts is optional and not compulsory; but, if they are used, the conduct of the ship must be in accordance with signals made."

A. In narrow and frequented places, more than sufficient, so many whistles would tend to confusion and disaster, even if both vessels answered and used the same signal, and in open sea in lesser degree. Take another instance: A, steamer, (off Nantucket Shoals in open sea,) going west, (approaching New York,) hears a whistle a little on her port bow, which proceeds from B, another steamer, going east. (Mostly eight fast steamers leave New York every Saturday.) Each steamer, A and B, going 10 or 12 miles per hour, A blows one whistle, but in the excitement two whistles might be blown. B hears two whistles, therefore starboards her helm, causing collision; or it might be A hears a whistle on her starboard bow; A starboards her helm and tries to blow two whistles, but owing to the intense cold in winter the steam has somewhat condensed, and the pipe is partly filled with water. The first whistle is not heard by B, and B, having only heard one whistle, ports her helm, causing collision.

Q. 5. "Whether they have any more simple or effective system to suggest?"

A. Nothing more than the American system as regards steamers; holding all vessels (sail or steam) when under way in fog to be responsible, each vessel standing its own risk, and each to repair (if they can) their own damage. As regards sailing-vessels, the law now states that sailing-vessels, when under way, shall make a prolonged blast with fog-horn every three minutes, no matter what tack they are on. Might I suggest this alteration? Fog-horn on port-tack only, and Chinese gong on starboard tack; a fog-horn is with some people difficult to blow, and so may sometimes

cause neglect. Instance: A German steamer in open sea off Nantucket heard a fog-horn on her port bow; it proved to be from a Swedish bark on port tack, heading southward, wind easterly, going 9 knots per hour; German steamer going east, 10 knots per hour, struck Swedish vessel amidships. Had there been a distinction of fog-signal, showing which tack the sailing-vessel was on, the steamer would have known how to act.

Q. *6. "Whether, looking to American experience, the system of signaling by sound should be confined to foggy and thick weather, or whether it should be extended to narrow channels?"

A. In fog, no. In moderately clear weather, as the Americans use it and herein described, yes. Both in open sea and narrow channels.

In fog, a weak whistle may appear a long way off, and a powerful whistle close to, when it is the reverse. Again, the wind deflects sound, and, therefore, the two important points about collision are unknown, namely, bearings and distance; also, original course and speed of each vessel prior to collision is unknown.

The new-suggested rules of signal by sound in fog may at first sight appear plausible and feasible, yet in execution, I apprehend, they would be non-effective, causing confusion and disaster. In short, the only thing I can see in it during fog is watchfulness, promptitude, good decision how to act according to circumstances.

I have, &c.,

JOHN MIREHOUSE.

ERNEST S. INMAN, Esq., *Liverpool.*

LIVERPOOL, *February* 26, 1875.

SIR: In reference to the letter from the board of trade regarding fog-signals, I think it is quite requisite for safety to go by sound signals of the whistle, both in foggy weather and in narrow channels. I propose—one short blast, "port your helm;" two short blasts, "starboard;" and three short blasts, "stop and reverse."

All steamers when at sea, and steering course in foggy weather, to blow the whistle only once for a certain number of seconds, to be sounded at least every two minutes, not at any longer intervals; sailing-ships to sound the horn likewise. At the present time, in the Atlantic, some steamers blow the whistle once, some twice, and others three or four times, one after another.

The signals in the United States are, one blast for port, two for starboard. I cannot say whether they have any for stop or reverse. I have been in the New York trade a great number of years, and found these signals to avoid collisions in many instances. The less the signals are complicated the more easy they are understood. I object to four blasts of a whistle; I don't think it would prevent collision, the time being entirely too long.

I am, &c.,

HENRY TIBBITS,
Master Royal Mail-Steamer City of Paris.

ERNEST INMAN, Esq.

INMAN STEAMSHIP COMPANY, (LIMITED,)
LATE LIVERPOOL, NEW YORK, AND PHILADELPHIA STEAMSHIP COMPANY,
Liverpool, March 15, 1875.

SIR: In accordance with your desire, conveyed to me in your note regarding fog-signals, I beg to state that I have carefully read the letter from the board of trade, and reply that, as far as my experience goes of the American system, I think it admirably suited to navigation during fogs and in narrow channels. The system, as far as I am aware, consists of three signals, namely, the port and starboard signals, as described in the letter, and three short blasts, to signify that the vessel is coming toward you and likely to pass close to you; this I would submit as meeting the general requirements, and at the same time remain perfectly simple. The signal consisting of four blasts might, I think, in many cases be mistaken for three, while rendering the system more complicated than is absolutely requisite.

I remain, &c.,

GEO. S. MURRAY.

ERNEST INMAN, Esq.

(M. 4558.)

Mr. W. Macalister to Board of Trade.

NATIONAL STEAMSHIP COMPANY, (LIMITED,)
DRURY BUILDINGS, 21 WATER STREET,
Liverpool, March 23, 1875.

SIR :. Referring to your letter of the 12th instant respecting fog-signals at sea, and inclosing a proposal for the consideration of the captains and officers in this company's service, I have the pleasure of inclosing a written report by several of our captains and officers now in port, from which you will see that, for the most part, your proposal is approved of, while one portion only of the plan is condemned. I may add, that I quite agree with them in their remarks.

I am, &c.,

W. B. MACALISTER,
General Manager.

The ASSISTANT SECRETARY
Marine Department, Board of Trade.

[Inclosure.]

NATIONAL STEAMSHIP COMPANY, (LIMITED,)
DRURY BUILDINGS, 21 WATER STREET,
Liverpool, March 23, 1875.

SIR : We, the undersigned masters and officers in the National Steamship Company's service, having carefully considered the communication forwarded to you for their consideration, are of opinion that the adoption of the proposed rules would be of great advantage in all weathers. They should be used in narrow waters ; but we think that the signals of sailing-ships should be more often than three minutes in foggy weather, and that every sailing-ship be compelled to use one of the bellows fog-horns instead of one blown by the mouth.

We are also of opinion that the signal of four blasts of the steam-whistle (intimating "I am going full speed astern") should not be adopted, as it might lead to confusion.

And we further recommend that signals numbered 1, 2, and 3 should be made compulsory.

ARCH. THOMSON,
Master Steamship Italy.
JOHN THELFALL BRAGG,
Master Steamship The Queen.
C. S. H. ANDREWS,
Master Steamship Erin.
GEORGE ALLTREE,
Master Steamship France.
WILLIAM TYSON,
First Officer Steamship France.
WILLIAM HELM JACKSON,
Second Officer Steamship Erin.
ALEXANDER JEFFREY,
Second Officer Steamship France.
H. O. N. EDYE,
First Officer Steamship Italy.
JAMES ARNOLD,
First Officer Steamship The Queen.
WILLIAM ARTHUR GRIFFITHS,
Second Officer Steamship The Queen.
J. W. ROGERS,
First Officer Steamship Egypt.

W. B. MACALISTER, Esq.,
General Manager.

(M. 4905.)

Messrs. James & Alexander Allan to Board of Trade..

70 GREAT CLYDE STREET, GLASGOW,
March 31, 1875.

SIR: We have not been able sooner to reply to your letter (M. 2626) on proposed fog and other signals.

Our masters and officers being at sea, except those of the ships laid up, a general inquiry among them is a work of time.

We have only, in consequence, been able to learn in detail the views of a few of them, but practically they must be alike.

We shall reply to the questions in their order, and then comment on the whole subject from our own point of view.

Question 1. Whether the masters and officers of our steamships have experience of the system used in the United States; what is that system; and does it, in their opinion, conduce to safety?

Answer. Our masters and officers are aware that signals similar to those you propose are in use by American pilots in American waters in clear weather, but do not seem to know that they are in more extended use.

Q. 2. Whether the system is easy of application and interpretation?

A. They are not sufficiently acquainted with the signals to make any use of them themselves.

Q. 3. Whether any similar system could, with advantage, be adopted in British waters?

A. They doubt the possibility of navigating in narrow waters in fog by means of such signals, owing to the risk of more vessels than one sounding at the same time and causing confusion.

Q. 4. If so, whether the system propounded in the inclosed will be sufficient; and, if not,

Q. 5. Whether they have any more simple or effective system to suggest; and,

Q. 6. Whether, looking to American experience, the system of signaling by sound should be confined to foggy and thick weather, or whether it should be extended to narrow channels in all weathers?

A. 4, 5, and 6. They think it would be a good thing to have a code of sounds by which to express movements, to be used more particularly in clear weather, to convey messages when occasion requires, and, after some years experience, a fresh inquiry might be made to determine its usefulness, and guide as to making it compulsory.

They have not suggested any code or change upon the rules you have printed.

We shall now, with your permission, state some points of difficulty that have occurred to ourselves.

If the compulsory rules A, B, and C are observed in fogs, it is a physical impossibility at the same time to use the optional signals, and the interval between the compulsory blasts would, we fear, be too short for the distinctive use of the optional signals; still, they might be tried.

But compulsory rules, as we understand the law, must be strictly observed, and these only. If a collision arose and it was proven in court that a steamship had not conformed to the law that obliges her to give a prolonged blast once in every three minutes, but had, instead, given one prolonged blast and three short ones, we fear she might be cast in damages.

Supposing this difficulty of the law were got over, which it might be by inserting the words "at least one" after the word "made," deleting "a" in the rule, it seems to us that it is most desirable to express actions by signals, but that those to be expressed are insufficient.

That a sailing-ship is on the port tack, or the starboard tack, or having the wind aft, are important facts to know at night or in fog, especially in the Gulf of Saint Lawrence and in our own channels.

These could, however, be expressed as follows: the one blast which, when whistled, signifies in a steamer "I am porting," might, when blown by a fog-horn, mean "I am a sailing-ship on port tack;" two, by fog-horn, "I am a sailing-ship on starboard tack;" three, by fog-horn, "I am a sailing-ship running before the wind."

No steamer should use a fog-horn.

We append a copy of the American law as to fog-signals, into which, you will observe, the foregoing suggestions would dovetail.

We are, &c.,

JAMES & ALEXANDER ALLAN.

The ASSISTANT SECRETARY
Marine Department, Board of Trade.

[Inclosure.]

Extract from notice to mariners.

TREASURY DEPARTMENT, WASHINGTON.

Every steamer, when under way, shall use a steam-whistle. Sailing-vessels, and all other craft propelled by sails, shall use a fog-horn.

Whenever there is a fog, whether by day or night, the fog-signals described below shall be sounded.

Sailing-vessels, and every craft propelled by sails, upon the ocean, lakes, and rivers, shall, when on their starboard tack, sound one blast of their fog-horn; when on their port tack, they shall sound two blasts of their fog-horn; when with the wind free or running large, they shall sound three blasts of their fog-horn; when lying to, or at anchor, they shall sound a general alarm. In each instance, the above signals shall be sounded at intervals of not more than two minutes.

Sailing-vessels, when not under weigh, and anchored or moored in the channel or fair-way of commerce, shall sound the general-alarm signal at intervals of not more than two minutes; and all steamers navigating in a fog or thick weather, shall, by the rules governing pilots, sound their steam-whistle at intervals of not more than one minute.

(M. 8292.)

Messrs. Ismay, Imrie & Co. to Board of Trade.

WHITE STAR LINE, LIVERPOOL, *June* 1, 1875.

SIR: In compliance with your circular, M. 2626, we requested the captains and two senior officers of our Atlantic steamers to express their views, in writing, on the question of sound-signals.

They are all men who have had considerable and varied experience, and as their own words will convey the best estimate of their opinion, we have the pleasure to hand you herewith verbatim copies of their replies, which we hope will prove both interesting and useful to the rule of the road commission, which is about to consider the important question of sound-signals.

We remain, &c.,

ISMAY, IMRIE, HUGHES & CO.

The ASSISTANT SECRETARY
Marine Department, Board of Trade.

[Inclosure.]

REPORTS OF CAPTAINS AND OFFICERS OF WHITE STAR LINE ON SOUND-SIGNALS PROPOSED BY BOARD OF TRADE.

Fog-signals.

LIVERPOOL, *March* 22, 1875.

DEAR SIRS: Referring to above as per your inclosure, I would say the first few clauses, including A, B, and C, being compulsory, are not open for discussion, although with the speed attained at present age the intervals between blasts are entirely too long.

The four signals suggested seem very good, and to have been carefully studied, but I think as it is necessary, once the signal is made, to follow it or act in accordance, it should also be imperative that the ship first making the signal should have the right of way.

I would also suggest that in clear weather, more particularly in rivers and approaches, where it is often found necessary to cross over from your recognized side of the river to the other with heavy-draught ships on a flowing tide or a following tide, Nos. 1 and 2 signals should be used; No. 3 to mean, "I am keeping my course;" no occasion for No. 4; the vessel first making this signal to have right of way. This has been found to work well in America.

If not out of place, I should strongly recommend all vessels which are being approached by others in such a manner that their regulation lights cannot be seen, (whether at anchor, coming to anchor, weighing, or under way,) should show a

bright light at stern, as for instance, overtaking a vessel at sea, meeting a vessel in stays, a vessel in the act of rounding-to to anchor, or coming on a vessel at anchor, where her three masts are in one, hiding the light on forestay.

I am, &c.,

WILLIAM HENRY THOMPSON,
Commander Steamship Britannic.

Messrs. ISMAY, IMRIE & CO., *Liverpool.*

LIVERPOOL, *March* 19, 1875.

GENTLEMEN: Referring to your favor of the 18th instant, regarding fog-signals, I am of opinion that three minutes is too long an interval; two minutes is quite long enough between the blasts. The signals proposed for port and starboard work very well in American waters, and I would suggest a continuous blast of the whistle to mean, "Danger," "Take care," "I am stopped," &c., until the danger is past; three short blasts to mean "Full speed astern." I think more than three blasts objectionable, as mistakes may occur in counting.

I am, &c.,

HAMILTON PERRY,
Commander Steamship Adriatic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *April* 2, 1875.

GENTLEMEN: In reply to your letter of the 18th March, asking for my opinion of the additional fog-signals proposed by the board of trade for the use of steamers, I beg to say, that I consider the first and second signals, viz, one short blast of the steam-whistle, "I am porting," and two short blasts, "I am starboarding," to be very good, and would be very useful if used by all steamers.

The third and fourth signals I consider unnecessary.

The port and starboard signals have long been in use in America.

My chief and second officers are of the same opinion as myself.

I remain, &c.,

CHARLES WM. KENNEDY,
Commander Steamship Baltic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *April* 3, 1875.

GENTLEMEN: In reply to your note of the 1st instant, inclosing copy of signals proposed by board of trade to be used by steamers and sailing-vessels during fog, the signals A, B, and C, I understand are compulsory, and I do not think can be improved upon.

With regard to the additional signals, one short blast, "I am porting," and two short blasts, "I am starboarding," are the signals already in use in American waters, both in fog and clear weather; and, I am of opinion, are all that are necessary; the other signals as to caution, &c., would, perhaps, cause confusion, as each vessel should at all times be taking care.

I would suggest in particular, in narrow waters, that all sailing-vessels when running should be obliged to carry a light of some kind over the stern, as I have on several occasions nearly collided with them when going the same way, in consequence of no lights being visible.

I am, &c.,

B. GLENDELL,
Commander Steamship Republic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *March* 22, 1875.

GENTLEMEN: 1. Steamships, when under way during a fog, should blow the whistle twice in quick succession every three minutes; the first blast to call attention, and the second to define position.

The short blasts, to show the position of the helm of meeting or passing steamers, are absolutely necessary, but the one which takes the initiative should have the right of way.

The remainder of the steam-signals will lead to mischief, as sailors will differ in what makes a long or short note.

2. Sailing-vessels should be compelled to use a bellows fog-horn when under way, as its notes can in quiet weather be heard at a distance of two miles.

The tin mouth-trumpet is almost useless, and in cold weather blisters the mouth.

I remain, &c.,

W. W. KIDDLE,
Commander Steamship Celtic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *March* 27, 1875.

GENTLEMEN: In reply to yours of the 19th ult., with regard to fog-signals, I have the honor to inclose the opinions of my senior officers, and to give you my own.

1. One short blast of whistle or horn, "I am porting,"

2. Two short blasts of whistle or horn, "I am starboarding," are very good, and should be made compulsory.

3. Three short blasts, "Take care," "I am taking care," is superfluous. More care and vigilance is usually exercised by all officers in a fog.

4. Four short blasts, "Going full speed astern," or "In stays," might be made by the third, did time admit; it must be remembered that the velocity of sound is much retarded by fog, and when a whistle or horn is heard, the distance between two ships is not enough to allow of a number of signals being made and interpreted. To avoid collision, action must be prompt. The first signal, one blast, indicates the position of a ship and her action; so does the second; they are simple, and I believe, under the usual circumstances in a fog, sufficient for safety; the two last would be perplexing among a fleet of ships.

I am of opinion that the interval of three minutes between the blasts is too long, and should not be more than two.

I have, &c.,

H. PURCELL,
Commander Steamship Gaelic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *April* 7, 1875.

GENTLEMEN: I am in receipt of your note, inclosing a copy of fog-signals proposed by the board of trade, and herewith beg to hand you my report on the same.

The signals A, B, C are very good, with the exception of the interval given, which, in my opinion, should not be longer than two minutes at the most.

The four following signals would, I think, be of great use in channels or rivers, as giving a system to the signals, with the exception of the last, which I think would be apt to lead to error, or be confusing. I do not think these signals would be of much service on the high seas.

If I might be allowed to suggest, I think it ought to be compulsory to have more uniformity in the size of bell, horn, and whistle for fog purposes, as these instruments may often be seen totally unfit for these purposes.

Yours, &c.,

S. METCALFE,
Commander Steamship Belgic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *April* 2, 1875.

GENTLEMEN: In accordance with your request, I herewith give my opinion on the fog-signals proposed to be used on board of steamers.

I think that steamers under way should make one prolonged blast of the whistle, but that three minutes is too long an interval. Two minutes would be about one blast for every half-mile, when going full speed; and if there was much wind, that is quite as far as the whistle would be heard.

With reference to the steering-signals, I would propose that in the event of two ships meeting, if one should make a steering-signal, it should be repeated by the other, to show that she understood it and would act upon it.

I would further propose that the signal, "take care," be dispensed with, and substitute for it, "keep your course; I will keep my course."

This signal would be useful between sailing-ships and steamers.

I think the steering-signals will be of great use when navigating a ship in narrow waters.

I am, &c.,

HERCULES R. BURLEIGH,
Chief Officer Steamship Republic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *March* 18, 1875.

GENTLEMEN: Having been shown a proposed code of signals for fog to be used by steam and sailing vessels, when under way and at anchor, I am of opinion that the more simple the better, and less likely to lead to mistakes; and would suggest that one long blast, say blown at least every three minutes, one short blast to mean, "I am porting;" two, "I am starboarding," and three, "for danger," "I am stopped," or "reversing full speed."

I am, &c.,

ROBERT E. BENCE,
Chief Officer Steamship Ardiatic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *March* 23, 1875.

GENTLEMEN: In compliance with your request, I forward you what my opinion is with respect to the additional fog-signals proposed by the board of trade. My opinion is, that the additional ones proposed are as necessary as the red and green lights. I also think that all sailing-ships should be provided with more efficient fog-horns than have hitherto been used, and that they should be sounded every two minutes instead of every three minutes, as proposed in the list I received.

I am, &c.,

W. WHITEWAY,
Chief Officer Steamship Celtic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *March* 23, 1875.

GENTLEMEN: I have carefully read, with great pleasure, the letter containing new suggestions upon the matter of fog-signals.

As regards the signals for indicating the steamer's helm is going to port, or that it is being put to starboard, I fully agree with; but the one for giving information that it is steady, and likewise you are acting with caution, are liable to be misconstrued and cause great danger.

I should humbly suggest that a second whistle, of different tone, should be used for giving those signals.

I am, &c.,

JOHN KELLY,
Chief Officer Steamship Gaelic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *April* 8, 1875.

GENTLEMEN: Having carefully read and examined the articles respecting fog-signals, compulsory, as well as those desired to be made by every vessel, steam or sail, and strictly attended to in vicinity of land, or in channels or rivers, allow me, as desired, to state that I found already, during my frequent trips on the river Thames, and in the English Channel, that those signals, if strictly attended to by everybody in charge, are of very important value.

I am, &c.,

L. MEYER,
Chief Officer Steamship Belgic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *March* 31, 1875.

GENTLEMEN: In compliance with your instructions, I have examined the fog-signals submitted to me for perusal, and think that the new signals will answer the purpose they are intended for very well, and that the interval in fog-signals marked (*a*) and (*b*) is too long, as at the speed steamers now go they might strike a sailing-ship without ever hearing their horn, which can only be heard for a short distance.

And remain, &c.,

P. J. IRVING,
Second Officer Steamship Britannic.

Messrs. ISMAY, IMRIE & CO.

LIVERPOOL, *March* 21, 1875.

GENTLEMEN: In reply to your letter on fog-signals, &c., I am of opinion that the

interval between each signal ought only to be two instead of three minutes. The steering rules I have found practically to be very useful in American waters, where they seem to be well understood.

I am, &c.,

JAMES WEIR.

Messrs. ISMAY, IMRIE & Co.

LIVERPOOL, *March* 23, 1875.

GENTLEMEN: In compliance with the wish expressed in your letter of the 23d instant, I beg to give the following as my opinion of the code of fog-signals proposed by the board of trade.

With regard to the compulsory part, I think steamers and sailing-vessels ought to blow a blast every one minute instead of every three minutes, as at present; also, that sailing-vessels be supplied with efficient fog-horns, as we are frequently dangerously close to them before we hear their horns.

In reference to the non-compulsory signals, one, two, and four are good, but the three short blasts ("take care") are likely to confuse the officer in charge, as in all cases a prudent officer, when he heard another vessel's fog-horn, would ease his ship, and as her head would still be in the same direction, I think it would be better for three blasts to denote "I am keeping my course."

In any case, if the signals are to be used, (and I think they would tend to lessen the risk of collision,) they ought to be compulsory.

I am, &c.,

W. S. WADE,
Second Officer Steamship Celtic.

Messrs. ISMAY, IMRIE & Co.

LIVERPOOL, *April* 1, 1875

GENTLEMEN: In reference to the signals proposed by the board of trade in foggy misty, or snowy weather, I understand the signals A, B, and C are compulsory, but in my opinion the interval between each prolonged blast is too long; I think it ought to be made at least once every two minutes, or even every minute.

With regard to the additional signals, I think one short blast, "I am porting;" two short blasts, "I am starboarding;" and three short blasts, "I am going astern," are quite sufficient; I do not see the use of the signal, "I am taking care," as each vessel should at all times be doing so.

I am, &c.,

W. MASON,
Second Officer Steamship Republic.

Messrs. ISMAY, IMRIE & Co.

LIVERPOOL, *March* 23, 1875.

GENTLEMEN: I have carefully perused your memorandum as to the new regulations suggested by the board of trade regarding fog-signals, and I must humbly beg to agree with them, having seen them working very well on board the river steamers in New York. There has long been a want of system, and in my humble opinion the proposed rules will be of great service.

I am, &c.,

JAS. DUCKWORTH,
Second Officer Steamship Gaelic.

Messrs. ISMAY, IMRIE & Co.

No. 2.

[M. 1840.]

BOARD OF TRADE TO FOREIGN OFFICE.

Rule of the road.

BOARD OF TRADE, WHITEHALL GARDENS,
February 17, 1876.

SIR: I am directed by the board of trade to state, for the information of the Earl of Derby, that having received communications from various sources as to the improve-

ment of the existing international regulations for the prevention of collisions at sea, and among others the important suggestions from the French government enclosed in your letter of the 18th May, 1874, a committee was appointed to consider the whole subject.

This committee, having sat from time to time, have laid before the board the accompanying report and draft regulations, which have now been approved by the admiralty, Trinity House and this department; and I am to request that, in laying the same before Lord Derby, you will be so good as to move his lordship to cause them to be forwarded for the consideration of the governments of those countries which have adopted the existing international regulations, and of which a list is inclosed herein.

I have, &c.,

T. H. FARRER.

The UNDER SECRETARY OF STATE, *Foreign Office.*

[Inclosure in No. 2.]

List of countries which have adopted the existing international regulations.

Austria.
Argentine Republic.
Belgium.
Brazil.
Bremen.*
Chili.
Denmark, Proper.
Equator, (Republic of the.)
France.
Great Britian.
Greece.
Hamburg.*
Hanover.*
Hawaiian Islands.
Hayti.
Italy.
Lubeck.*
Mecklenburg-Schwerin.*
Morocco.
Netherlands.
Norway.
Oldenburg.*
Peru.
Portugal.
Prussia.*
Roman States.†
Russia.
Schleswig.*
Spain.
Sweden.
Turkey.
United States, sea-going ships.
United States, inland waters.
Uruguay.

* These places are now included in the German Empire.
† The Roman States now form part of the Kingdom of Italy.

No. 98.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *May* 22, 1876. (Received May 23.)

SIR: I have the honor to inform you that, in consequence of a dispatch which I have received from the Earl of Derby relative to the law of the United States with regard to the shipment of dangerous goods on board of different classes of vessels, I drew his lordship's attention to the present state of that law, as embodied in sections 4278, 4279, 4472, 4473, 4475, 4476, 5353, 5354, 5355 of the Revised Statutes. I also transmitted to his lordship a copy of the bill (H. R. No. 1190) "to amend certain sections of titles 48 and 52, regulation of commerce and navigation, and regulation of steam-vessels, Revised Statutes of the United States, pages 800 and 857."

Lord Derby has now instructed me to submit to the Government of the United States that there appears to be one important defect in the United States law, viz, that unless the dangerous article shipped happens to be one of the articles specified in the statutes of the United States, there is no remedy against the shipper.

The general description contained in the bill, such as "and all other articles of like character," appears to confine the articles referred to in the bill to those of an explosive character. There are many articles which are dangerous, from their inflammable nature or otherwise, but which are not explosive, and it would be desirable that some effectual remedy should be given in the case of shipments of dangerous goods of any kind. The 23d section of the British merchant-shipping act of 1873 uses the following words, which seem wide enough for all practical purposes, viz, "any dangerous goods, that is to say, aqua-fortis, vitriol, naphtha, benzine, gunpowder, lucifer-matches, nitro-glycerine, petroleum, and any other goods of a dangerous nature."

If these or similar words could be introduced into the law of the United States, it might be a great improvement. It is to be observed that section 4 of the bill only specifies the articles "oil of vitriol, unslaked lime, inflammable matches, or gunpowder."

Another defect would appear to be that the only remedy provided by the United States law is the power to prosecute the shipper of dangerous goods for a misdemeanor. There are numerous provisions in that law for punishing the ship-owner, and the statutes seem to be prepared on the assumption that the ship-owner is the person desirous of putting the dangerous goods on board his ship. This, however, is not the case. The great body of ship-owners, particularly those engaged in the passenger-trade, are most anxious to keep all dangerous goods out of their ships, and the difficulty that arises in excluding such goods is due to the fact that their owners, knowing the ship-owner's objection to carry them, use various devices for concealing their nature. It is for this reason that some remedy against the shippers, more easily put in force than that of prosecution for a misdemeanor, would be extremely desirable. The 25th section of the British merchant act of 1873 gives power to the master or owner to open and inspect cases suspected of containing dangerous goods.

The 26th section authorizes the master or owner to throw such goods overboard.

The 27th section contains a most important provision, enabling any court having admiralty jurisdiction to declare such goods forfeited, and to dispose of them as the court directs.

There is often great difficulty in proving a case against a shipper, as it frequently occurs that he is a mere agent for other parties, and that he is ignorant of the nature of the goods. The real principal in the transaction is generally the consignee, and yet it may be impossible to prove his connection with the matter, and as the law stands at present in the United States the ship-owner is compelled to deliver to the consignee the dangerous goods which he has carried, upon their arrival at the port of destination.

The shipper of dangerous goods is therefore not discouraged from continuing the practice. Power of forfeiture, under the direction of a legal tribunal, appears to be the only mode of meeting such a case.

Lord Derby has instructed me to express the hope of Her Majesty's government that the above observations and suggestions may be considered by the Government of the United States of sufficient importance to be worthy of attention, and possibly of adoption, if the Legislature of the United States should deem it expedient.

I have, &c.,

EDW'D THORNTON.

No. 99.

Sir Edward Thornton to Mr. Hunter.

WASHINGTON, *September* 6, 1876. (Received September 6.)

SIR: In compliance with an instruction which I have received from the Earl of Derby, I have the honor to inclose copy of an extract from a report by Major Cameron, the British Commissioner on the late North American Boundary Commission, relative to the assistance rendered him by the Government of the United States and its officers on various occasions, and to convey to that Government the sense entertained by Her Majesty's government of the courtesy and friendship shown by General Terry, commanding the Missouri Division of the United States Army, to Captain Anderson, the chief astronomer to the Commission, on his arrival at Duluth with a party of royal engineers, as reported by Major Cameron.

I have, &c.,

EDW'D THORNTON.

[Inclosure.]

North American Boundary Commission.—Extract from Major Cameron's Report.

I have also to acknowledge the courtesy and friendly consideration shown by General Terry, commanding the Missouri division of the United States Army, who, on receiving Captain Anderson's report of his arrival at Duluth with a detachment of the royal engineers, immediately welcomed him, and offered the services of one of his staff officers to facilitate the journey through Minnesota and Dakota to Pembina.

And here, too, may be a proper place for me to bring to your lordship's notice the great facilities afforded to me in the execution of Her Majesty's commission by the Government of the United States, who issued instructions through the customs department to expedite the transmission of stores, &c., for the British party through United States territory.

I have also to note my acknowledgment of the assistance rendered to me by the United States consuls at Montreal, Ottawa, Toronto, and Hamilton, and to record the unvarying courtesy and consideration shown to myself and all the members of the British expedition by the United States officials at the ports of entry Detroit, Duluth, and Pembina.

EXTRADITION TREATY.

No. 100.

Mr. Fish to General Schenck.

[Telegram.]

WASHINGTON, *February* 12, 1876.

E. D. Winslow, charged with large forgeries, escaped by steamer Rotterdam, under name of Clifton, and is said to be in London. Obtain arrest, if possible, and advise Department promptly.

FISH,
Secretary.

No. 101.

General Schenck to Mr. Fish.

[Telegram.]

LONDON, *February* 15, 1876.

Winslow arrested. Send charge with proof at once.

SCHENCK.

No. 102.

Mr. Fish to General Schenck.

[Telegram.]

WASHINGTON, *February* 17, 1876.

Officer, with papers for Winslow's extradition, sails Saturday.

FISH,
Secretary.

No. 103.

Mr. Fish to General Schenck.

No. 845] DEPARTMENT OF STATE,
Washington, February 17, 1876.

SIR: Information of a trustworthy character having reached this Department that one Ezra D. Winslow, charged with the commission of the crime of forgery in the State of Massachusetts, is now under arrest in London, awaiting extradition, I have to request you, pursuant to the provision of the tenth article of the treaty of 1842, between the United States and Great Britain, to make application to the proper authorities for the delivery of said Winslow into the custody of Mr. Albion P. Dearborn, who is duly authorized to receive the criminal, and to bring him back to the United States for trial.

Mr. Dearborn, who is provided with the necessary papers in the case, sails at once for London, and will present himself at the legation.

I am, &c.,

HAMILTON FISH.

No. 104.

Mr. Fish to General Schenck.

No. 849.] DEPARTMENT OF STATE,
Washington, February 21, 1876.

SIR: A conversation occurred on the 17th instant, between Sir Edward Thornton and myself, in reference to the course which might be adopted by the British government on a demand being preferred for the extradition of Winslow on the charge of forgery.

Sir Edward suggested that if his surrender were requested it might be refused, unless a stipulation was entered into that the fugitive should not be tried upon any offense other than that for which he was extradited.

Whether this course, if adopted, grows out of the proceedings in the Lawrence case, or from a desire to make the extradition treaty between the United States and Great Britain subject to the provisions of the British extradition act of August 9, 1870, I cannot say.

You will remember that this act in section 3, under the head of "Restrictions on surrenders of criminals," provides that no criminal shall be surrendered unless provision is made by the law of the foreign state, or by arrangement, that the fugitive shall not be tried for any offense "other than the extradition crime proved by the facts on which the surrender is grounded."

If the course adverted to be caused by the Lawrence case, it may be well to say that it is believed that Lawrence has not, up to this time, been arraigned for any other than the extradition offense, and that no representation has been made to this Government on the question.

If such a course is taken for any other reason, it may be said that Great Britain has on more than one occasion tried surrendered criminals on offenses other than those for which they were extradited, and such trials afford a practical construction of the scope of the treaty and of the power and rights of either Government as understood and applied by Great Britain for a period of nearly thirty years after the ratification thereof; and I cannot imagine that it will be claimed by Great Britain that either party to a treaty may at will, and by its own municipal legislation, limit or change the rights which have been conceded to the other by treaty, and have been practically admitted for such length of time.

I would also call your attention to the twenty-seventh section of the act of 1870, (ch. 52, 33, 34, Vict.,) repealing former acts under which extradition had theretofore been made; this section expressly excepts everything contained in the act inconsistent with the treaties referred to in the repealed acts, among which is the treaty with the United States. It seems to have been clearly the intent of Parliament not to apply to that treaty any of the provisions of the act inconsistent with the treaty, as it had existed and been enforced for nearly thirty years.

While I hope that no such demand will be made as intimated, you will object to any such stipulation being asked, and, should it be insisted upon, you will decline to give it, and, if necessary, telegraph to the Department for further instructions.

I am, &c.,

HAMILTON FISH.

No. 105.

General Schenck to Mr. Fish.

[Telegram.]

LONDON, *March* 2, 1876.

Lord Derby calls attention to third clause, subsection two, of extradition act, and declines to give up Winslow unless promise is made by law or by arrangement that he shall be tried only for the extradition crime.

SCHENCK.

No. 106.

General Schenck to Mr. Fish.

No. 884.] LEGATION OF THE UNITED STATES,
London, March 2, 1876. (Received March 18.)

SIR: Referring to your dispatch No. 845, and to my telegram of this date, I have the honor to inclose to you a copy of a note I have received from Lord Derby upon the subject of the surrender of Winslow.

Before receiving this note, though subsequent to its date, I had applied in the usual form for the surrender of the accused. Winslow was brought before the sitting magistrate to-day, the necessary proofs and papers were put in, and the prisoner was remanded till to-morrow to await notice from the foreign office that his surrender had been demanded by the United States Government.

I have, &c.,

ROBT. C. SCHENCK.

[Inclosure in No. 884.]

Lord Derby to General Schenck.

FOREIGN OFFICE, *February* 29, 1876.

SIR: I have the honor to state to you, that I have been informed by Her Majesty's secretary of state for the home department, that the chief magistrate of the Bow street police-court issued, on the 13th instant, upon the information of Colonel Chesebrough, of the United States legation, warrants for the apprehension, under the 8th section, clause second, of the extradition act, 1870, of Ezra D. Winslow, who is accused of the crime of forgery within the jurisdiction of the United States of America.

Her Majesty's secretary of state for the home department, in communicating this to me, has drawn my attention to the third clause subsection 2 of the act, which is as follows:

"A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offense committed prior to his surrender, other than the extradition-crime proved by the facts on which the surrender is grounded;"

And has inquired whether any provision has been made by the law of the United States or by arrangement that Winslow, if surrendered, shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in the United States for any offense committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded.

The secretary of state for the home department fears that the claim advanced by your Government to try Lawrence in the recent case of extradition, with which you are familiar, for crimes other than the extradition crime for which he was surrendered, amounts to a denial that any such law exists in the United States; while the disclaimer by your Government of any implied understanding existing with Her Majesty's government in this respect, and the interpretation put upon the act of Congress of August 12, 1842, chapter 147, section 3, preclude any longer the belief in the existence of an effective arrangement, which Her Majesty's government had previously supposed to be practically in force.

The secretary of state for the home department is accordingly compelled to state that, if he is correct in considering that no such law exists, he would have no power, in the absence of an arrangement, to order the extradition of Winslow, even though the extradition crime for which he has been arrested were proved against him, and the usual committal by the magistrate ensued thereupon.

I have thought it right to lose as little time as possible in calling your attention to the intimation which I have thus received from Her Majesty's secretary of state for the home department; and I have the honor to request that you will bring the circumstances to the knowledge of your Government, in order that means may be found for the solution of the present difficulty.

I have the honor, &c.,

DERBY.

No. 107.

Mr. Fish to General Schenck.

[Telegram.]

WASHINGTON, *March* 3, 1876.

The treaty of extradition between the United States and Great Britain admits no right in either party to exact conditions beyond those expressed in the treaty. The promise now asked in regard to Winslow is not in accordance with the treaty, and cannot be given. You will request the surrender of the fugitive on the terms of the treaty.

FISH,
Secretary.

No. 108.

Mr. Hoffman to Mr. Fish.

No. 36.] LEGATION OF THE UNITED STATES,
London, March 4, 1876. (Received March 20.)

SIR: Referring to your dispatch No. 845, I have the honor to inform you that Winslow was committed for extradition on the 3d instant, on the several charges of forgery, and on the several charges of uttering forged paper, as set forth in the indictment. Colonel Chesebrough, who has had this matter in charge, has taken great pains to see that the mistake made by the solicitor employed in the Lawrence case should not be repeated.

In this connection I have to acknowledge your telegram of yesterday, and to say that I shall at once address a note to Lord Derby in pursuance of your instructions.

I have, &c.,

WICKHAM HOFFMAN.

No. 109.

Mr. Hoffman to Mr. Fish.

No. 39.] LEGATION OF THE UNITED STATES,
London, March 10, 1876. (Received March 24.)

SIR: Referring to your dispatch No. 849, in relation to the extradition of Winslow, I have the honor to inclose to you herewith a copy of a note which I received last evening from Lord Derby, dated March 8, and also a copy of a note which I addressed to him upon the same day. Having reason to believe that Her Majesty's government are determined to adhere to the position taken by them, and refuse to give up Winslow, unless a law or arrangement is made that he shall be tried only for the extradition crime, upon the ground that the extradition act of 1870 leaves them no choice in the matter, I addressed my argument, as you will observe, principally to show that the act does not apply to the treaty, and I referred especially to the 27th section, (ch. 52; 33, 34,) to which you called my attention.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 39.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE,
March 8, 1876. (Received March 9.)

SIR: I referred to Her Majesty's secretary of state for the home department General Schenck's notes of the 1st and 2d instant, applying for the surrender, to the United States officer authorized to receive him, of Ezra D. Winslow, charged with having committed certain crimes within the jurisdiction of the United States of America; and I have the honor to inform you that, the requisite proof having been laid before him, the chief magistrate of the Bow street police court has formally committed Winslow to prison, and Mr. Cross has forwarded to Sir Thomas Henry his order, under section 8 of the extradition act, 1870, signifying that a requisition has been made for the surrender of the prisoner.

The chief magistrate will, upon the committal being completed, forward to Mr. Cross a certificate of such committal, together with his report upon the case, and nothing would, in the ordinary course of things, remain but for Her Majesty's secretary of state for the home department, at the expiration of the fifteen days prescribed in the eleventh section of the act of 1870, to issue his warrant for Winslow to be surrendered to the person duly authorized to receive him. But, in view of the difficulty created in consequence of what has recently occurred in the case of Lawrence, as well as the positive enactment of section 3, subsection 2, of the extradition act of 1870, quoted in the second paragraph of my note to General Schenck, of the 29th ultimo, Her Majesty's government do not feel themselves justified in authorizing the surrender of Winslow until they shall have received the assurance of your Government that this person shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in the United States for any offense committed prior to his surrender other than the extradition crimes proved by the facts on which the surrender would be grounded; and I have the honor to request that you will communicate this decision to your Government, in order that some arrangement may be come to in the matter.

I have, &c.,

DERBY.

[Inclosure 2 in No. 39.]

Mr. Hoffman to Lord Derby.

LEGATION OF THE UNITED STATES,
London, March 8, 1876.

MY LORD: Referring to your note to General Schenck of February 29, upon the subject of the extradition of Winslow, in which you state that the secretary of state for the home department may come to the conclusion that he has no power to surrender the fugitive, even though the usual committal by the magistrate should take place, I have the honor to inform you that I have received a communication from my Government upon this subject. Mr. Fish states, not having then received a copy of your lordship's note, but only a telegram from General Schenck, that he is at a loss to understand upon what ground the possible action of Her Majesty's government, as foreshadowed in that communication, is based.

If it is founded on a desire to make the extradition treaty of 1842 between the United States and Great Britain subject to the extradition act of 1870, he is unable to find anything in that treaty which admits the right of either party to exact conditions beyond those expressed in the treaty. If, on the other hand, it is based, as I infer from your lordship's note, upon the reported action of my Government in the Lawrence case, I am authorized by Mr. Fish to say that at the date of his dispatch Lawrence had not been arraigned for any other crime than the extradition crime, and that no representation had been made to my Government upon this subject. In your lordship's note you refer to the clause of the act of 1870, which forbids the surrender of a fugitive criminal, unless provision is made by law, or by arrangement, that he shall be tried only for the extradition crime proved by the facts upon which the surrender is granted. But may I be permitted to call your lordship's attention to the 27th section of the same act, (ch. 52; 33 and 34 Vict.,) repealing the former acts under which extradition had theretofore been accorded.

This section, probably suggested by the foreign office, excepts everything contained in the act inconsistent with the treaties referred to in the repealed acts, among which treaties is that with the United States. And I am enabled to call your lordship's attention to a case in the court of the Queen's Bench, *ex parte* Bouvier, in which it was

argued by the attorney-general, in reference to this section, that the intention of Parliament was to make a general act which should apply to all cases, except where there was anything inconsistent with the treaties referred to, and that the provision limiting the crime for which the trial might be had, being inconsistent with the treaty, *the condition so imposed did not apply to the treaty*, and the lord chief-justice (Cockburn) further observed, "I rather hesitate to express a decided opinion as to the construction to be put upon the 27th section, although I see plainly what was the intention of the legislature; that is to say, it was intended, while getting rid of the statutes by which the treaties were confirmed, to save the existing treaties in their *full integrity and force*." The "full integrity and force" of the treaty of extradition between the United States and Great Britain has been clearly shown and settled by an unbroken operation of nearly thirty years, during which time Great Britain has, at least upon one occasion, *tried surrendered* criminals for crimes other than those for which they had been surrendered, and has thus afforded a practical construction of the scope of the treaty, and of the powers and rights of both governments. I sincerely hope that Her Majesty's government, upon a further consideration of this matter, will be able to hold, with that eminent jurist, the lord chief-justice, that the desire of the legislature to save the treaties in "their full integrity and force" has been effected, and that they will decide, as he states that he should have done, had it been necessary, "that this object has been accomplished." I know that Her Majesty's government is as anxious as we are that criminals should not escape the just punishment of their crimes by taking refuge on a foreign shore; and it would assuredly be a sad thing for the interest of both countries, and for that of humanity, if a treaty which has worked so well for nearly thirty-five years, to our mutual advantage and to the furtherance of justice, should now be permitted to fall to the ground, and great criminals, on both sides of the Atlantic, be thus enabled to escape "unwhipt of justice."

I have, &c.,

WICKHAM HOFFMAN.

No. 110.

Mr. Fish to Mr. Hoffman.

No. 864.] DEPARTMENT OF STATE,
Washington, March 31, 1876.

SIR: Referring to previous correspondence in reference to the extradition of Winslow, in custody in London, I have now to acknowledge the receipt of your No. 39, under date of March 10, inclosing a note addressed to you by Lord Derby, of March 8th, and your reply of the same day.

With General Schenck's No. 884 was inclosed a note from Lord Derby, dated February 29th, in which it was stated that Her Majesty's secretary of state for the home department had drawn attention to subsection two of the third section of the British extradition act of 1870, and feared that the claim by this Government of the right to try Lawrence (who had been recently surrendered) for crimes other than that for which he had been extradited amounts to a denial that any such law as is referred to in the British act exists, and the disclaimer of this Government of the existence of any implied understanding in respect to trials for crimes other than extradition crimes, together with the interpretation put upon the act of Congress of August 12, 1842, (which is doubtless an error for 1848,) preclude any longer the belief in the existence of an effective arrangement which Her Majesty's government had previously supposed to be practically in force, and it was added that the secretary of the home department was compelled to state that if he were correct in considering that no such law exists, he would have no power, in the absence of an arrangement, to order the extradition of Winslow, even although proper proceedings had been taken for that purpose.

Lord Derby called General Schenck's attention to the intimation

which he had received from the home department, and requested that the matter be brought to the knowledge of this Government.

It is to be remarked, however, that in this note the foreign office, as distinguished from the home office, expressed no opinion on the question involved, but confined itself to requesting that the views of the home office might be communicated to this Government.

A few days later, however, on the 8th of March, Lord Derby assumes the more advanced position previously occupied only by the home department, and writes as follows: "Her Majesty's government do not feel themselves justified in authorizing the surrender of Winslow until they shall have received the assurance of your Government that this person shall not, until he has been restored, or had an opportunity of returning to Her Majesty's dominions, be detained or tried in the United States for any offense committed prior to his surrender other than the extradition crimes proved by the facts on which the surrender would be grounded," and requesting that this decision be communicated to this Government.

To his note you made reply under date March 8, referring to the general practice for many years under the treaty, and calling attention to the construction given to the twenty-seventh section of the act of 1870 in the case of Bouvier.

No further correspondence has reached this Government, and the matter rests upon this note of Lord Derby and your reply.

The reasons given by Lord Derby for the course intimated in his note arise, as he states, from what had taken place in this country in the Lawrence case, and the positive terms of section three, subsection two, of the British extradition act of 1870.

Moreover, it has been stated that the home office had even gone further, and expressed the opinion that, not only had some implied understanding been reached as to the particular crime for which Lawrence should be tried, but that it would be in violation of the law of the United States, and of the general laws of extradition of all countries, to try any prisoner for any other crime than the particular extradition offense for which he had been surrendered.

With regard to any such understanding, either expressed or implied by any authorized declaration or engagement of this Government, no evidence is adduced; none can be adduced. This Government asked the surrender of Lawrence, precisely as it has asked the surrender of all other fugitives who have been delivered by Great Britain under the treaty of 1842, complying on its part with the requirements of the treaty; and neither by expression nor by implication entering into any "arrangement," but simply requiring the fugitive to be "delivered up to justice." It furnished such evidence of criminality as according to the laws of Great Britain, where the fugitive was found, would have justified his apprehension and commitment for trial if the crime or offense had been there committed.

Great Britain recognized the compliance by this Government with all that the treaty required, and delivered the fugitive up to justice.

The allusion made by the home office to the case of Lawrence needs possibly a passing remark.

Charles L. Lawrence is charged with a series of forgeries whereby the Government of the United States claims to have been defrauded to an amount not far short of two millions of dollars on custom-house entries. He is supposed to have numerous and influential confederates, both in this country and in England, who are suspected of having

shared in the spoils resulting from these alleged frauds upon this Government.

A large number of indictments have been found against Lawrence, and proceedings either civil or criminal are either pending or imminent against supposed accomplices. It is supposed that prosecution of these cases might possibly disclose names on either side of the Atlantic, in connection with the alleged frauds, not yet brought before the public.

In the spring of 1875 Lawrence fled and escaped to Europe, and was arrested, under the assumed name of Gordon, at Queenstown, on a requisition for his surrender under the treaty. There were proved (as I am informed) before Sir Thomas Henry, in London, twelve or thirteen distinct charges of forgery, each on papers connected with a different invoice of goods. The representatives of this Government supposed the extradition was made on all the charges; but the letter or report of Sir Thomas Henry to the British home office led to the issue of a warrant of surrender of Lawrence on the single charge of forging a bond and affidavit, on which warrant the keeper of the jail delivered Lawrence to the agent appointed by the President to receive him; the terms of the warrant were not known to any agent or officer of this Government (as is represented to me) until long after Lawrence's return to the United States. His counsel and friends appear to have been apprised of the fact that, although proof was presented on some twelve or thirteen charges of forgery, the warrant of surrender seems to be confined to the forging a bond and affidavit. Up to this date Lawrence has been arraigned only upon one indictment, based on the forgery of the bond and affidavit mentioned in Sir Thomas Henry's report to the home office, and he has not been arraigned for any offense other than the extradition crimes proved by the facts in evidence before Sir Thomas Henry, and on which his surrender was based.

Although not arraigned on any other indictment than for the forgery for which he was extradited, the British home office has raised the question that he may possibly be tried upon other charges and for other crimes.

It seems, therefore, that the home office of Great Britain undertakes to decide what is the law of the United States, as well as of Great Britain, and assumes that the law of the United States, as well as general law of extradition and the extradition act of Great Britain, prevents the trial of a criminal surrendered under the treaty of 1842 for any offense other than the particular offense for which he was extradited; and the position which it takes involves the assumption that, in demanding an extradition under the treaty, the United States is bound by the provisions of the act of 1870, whether in conflict with the treaty or not, and it claims to have "supposed" that an "effective arrangement was in force" that no criminal so surrendered should be tried for any other than the particular extradition offense; on the faith of which arrangement it is claimed that surrenders have heretofore been made, and without which it is now said that a surrender would not be possible under an English act; but, as already said, nothing is adduced in support of the belief of the existence of such supposed arrangement.

These positions are so different from the understanding of this Government, and so opposed to the views which it was supposed were entertained by Great Britain, and which have been recorded in parliamentary papers, which have been asserted in diplomatic correspondence, and been recognized in judicial decisions in that as in this country, and set forth by writers on extradition law, that I learn from Lord Derby's

note, with surprise equal to my regret, that they appear to be supported by the foreign office.

The act of August 12, 1848, reproduced in the Revised Statutes, (sections 5270 to 5276,) referred to in the correspondence, does not affect or limit the rights of the two governments on the question.

This act is simply a general act for carrying into effect treaties of extradition. It provides the machinery, and prescribes the general mode of procedure, but does not assume to determine the rights of the United States, or of any other state, which are governed wholly by the particular provisions of the several treaties, nor to limit or construe any particular treaty.

In some few treaties between the United States and foreign countries provisions exist that the criminal shall not be tried for offenses committed prior to extradition, other than the extradition crime, and in others no such provision is included.

Again, under some treaties, the citizens or subjects of the contracting powers are reciprocally exempt from being surrendered, while others contain no such exception. The United States act of 1848 is equally applicable to all these differing treaties. If the surrendered fugitive is to find immunity from trial for other than the offense named in the warrant of extradition, he must find such immunity guaranteed to him by the terms of the treaty, not in the act of Congress. The treaties which contain the immunity from trial for other offenses have been celebrated since the date of the act of 1848.

At that date the United States had treaties of extradition only with Great Britain and with France, neither of which contained the limitation referred to.

The terms of the respective treaties alone define or can limit the rights of the contracting parties.

The construction of the treaty between the United States and Great Britain, by the two governments, and their practice in its enforcement for many years were in entire harmony. In each country surrendered fugitives have been tried for other offenses than those for which they had been delivered; the rule having been that, where the criminal was reclaimed in good faith, and the proceeding was not an excuse or pretense to bring him within the jurisdiction of the court, it was no violation of the treaty, or of good faith, to proceed against him on other charges than the particular one on which he had been surrendered. The judicial decisions of both countries affirm this rule. It was so held in a case of interstate extradition by Judge Nelson, in Williams *vs.* Bacon, 10 Wendell, 636, and the same principle was laid down by the court of appeals of New York, in a late case of Adriance *vs.* Lagrave, who had been delivered up under the treaty with France. In United States *vs.* Caldwell, (8 Blatchford Cir. Ct. Rp., 131,) Caldwell, after extradition from Canada for forgery in 1871, was indicted for bribing an officer; and the plea was entered that the prisoner was brought within the jurisdiction of the court upon a charge of forgery, under the treaty, and that the offense specified in the indictment was not mentioned in the treaty. A demurrer being interposed, the court decided the prisoner had been extradited in good faith, charged with the commission of a crime, and must be tried.

In the case of Burley, extradited from Canada on a charge of robbery, the prisoner was tried on assault with intent to kill.

In the case of Heilbronn, who was extradited from this country for forgery, and tried in Great Britain for larceny, the facts, as stated by the solicitor-general of Great Britain who had charge of the proceedings, and who was examined before the late British commission on the

extradition question, were, that the prisoner being extradited for forgery, was acquitted, and was thereupon tried and convicted for larceny, an offense for which he could not have been surrendered, not being enumerated in the list of crimes mentioned in the treaty.

In Canada there is the same current of authority.

In the case of Von Earnam, (Upper Canada Reports, 4 C., p. 288,) the prisoner was surrendered by the United States to Canada upon the charge of forgery, and application was made for release on bail on the ground that the offense was, at most, the obtaining of money under false pretenses and not within the treaty. Macauley, C. J., said, in denying the motion, that he was disposed to regard the offense as forgery, but even if the offense were only false pretenses, after "being in custody, he is liable to be prosecuted for any offense which the facts may support."

In Paxton's case, (10 Lower Canada Jurist, 212, 11, 352,) the prisoner was charged with uttering a forged promissory note. He pleaded that he had been extradited upon the charge of forgery, and could not be tried for uttering forged paper, or for any other than the extradition offense. The court decided that the trial should proceed. The prisoner thereupon protested against being called upon to plead to any other charge than that for which he was extradited, but he was tried, found guilty, and the conviction affirmed on appeal.

In addition to the foregoing, Judge Benedict, in his opinion in Lawrence's case, delivered within a few days past, entirely coincides in these views, and the Solicitor-General of the United States, in his opinion in Lawrence's case, dated July 16, 1875, reaches the same conclusions.

An examination of the report of the select committee on extradition of the House of Commons, which sat in 1868, under whose superintendence the extradition law of 1870 was framed, and which was composed of some of the most distinguished public men of Great Britain, among whom were the solicitor-general, Mr. Mill, Mr. Forster, Sir Robert Collier, and Mr. Bouverie, shows that the law of the United States, and the practice in regard to extradition, were perfectly well understood, and they are distinctly referred to on several occasions.

Mr. Hammond, now Lord Hammond, for many years under secretary of state, in speaking of Burley's case, stated, that as it was suggested that the prisoner, who had been surrendered on a charge of robbery, was about to be tried for piracy, the matter had been referred to the law-officers of the Crown, and that it was held that if the United States put him *bona-fide* on his trial for the offense for which he was extradited, it would be difficult to question their right to try him for piracy, or any other offense of which he might be accused, whether such offense was or was not a ground of extradition, or even within the treaty; and added, "We admit in this country that if a man is *bona-fide* tried for an offense for which he was given up, there is nothing to prevent his being subsequently tried for another offense, either antecedently committed or not." (Answer 1036.)

Mr. Mullens, an eminent member of the bar, who was counsel in the Lawrence case, in reply to a question of Sir Robert Collier, said that, in his opinion, a surrendered criminal ought to be tried for an offense other than the extradition offense arising from the same facts; and Mr. Forster, (question 1214,) considering the propriety of the proposed stipulation, that a person should be tried for no offense other than the extradition offense, said:

> The Americans do not make that stipulation, or else you would not have been able to try Heilbronn for another offense. To which Mr. Mullens responded: "No; there is no stipulation of that kind in the case of America."

Mr. Mill thereupon said, (question 1216:)

"As I understand it, the treaty with America would not prevent our trying a man for a different offense from that for which he had been given up." To which Mr. Mullens replied: "It would not; there is no stipulation that he shall not be tried for any other offense." Then follows question 1217, "Would you wish to extend that state of things to other countries?" and the reply, "With regard to America, I have never found any difficulty about it," &c.

So far as can be ascertained there was absolutely no dissent at any time from these views as to the law and practice under the treaty, and the only question seemed to be whether it was wise to attempt to change them.

Mr. Clark, (an eminent British authority,) in his Treatise on Extradition, says:

It is quite clear that neither the treaty nor the law of the United States contains the provisions of the extradition act of 1870.

It would appear, therefore, by the judicial decisions, by the practice of both governments, and by the understanding of the persons most familiar with proceedings in such cases, and the most competent to judge, that where a criminal has been in good faith extradited for an offense within the treaty, there is no agreement, express or implied, that he may not also be tried for another offense of which he is charged, although not an extradition offense. He is, in fact, (in accordance with the language of the treaty,) "delivered up to justice;" and in the absence of any limitation by treaty, to "justice" generally; each independent state being the judge of its own administration of justice. Surely, Great Britain will not allow the legislature of another state to prescribe or to limit the cases, or the manner in which justice is to be administered in her courts, and she will not expect the United States to be less tenacious of its independence in this regard.

Now, for the first time since the signing of the treaty of 1842, Great Britain raises the question of her right to demand from the United States, as a condition of the execution by Great Britain of her engagement to surrender a fugitive criminal charged with a series of stupendous forgeries, a stipulation or agreement not provided for in the treaty, but asked on the ground that an act of Parliament, passed some twenty-eight years after the treaty had been in force, prescribes it as one of the rules or conditions which should apply to arrangements for extradition, when made with a foreign state.

This involves the question whether one of the parties to a treaty can change and alter its terms or construction or attach new conditions to its execution without the assent of the other—whether an act of the Parliament of Great Britain, passed in the year 1870, can change the spirit or terms of a treaty with the United States of nearly thirty years' anterior date, or can attach a new condition, to be demanded of the United States before compliance by Her Majesty's government with the terms of the treaty, as they have been shown to have been uniformly understood and executed by both governments for the third of a century.

As this Government does not recognize any efficacy in a British statute to alter or modify or to attach new conditions to the executory parts of a previously-existing treaty between the United States and Great Britain, I do not feel called upon to examine particularly the provision of the law of 1870. But inasmuch as Great Britain seeks to impose the provisions of that act upon the United States in the execution of a treaty of many years' anterior date, I do not fail to observe that, while by the

act Great Britain assumes to require that no surrendered fugitive shall be tried in the country which demands his extradition for "any offense other than the extradition crime," (in the singular,) proved by the facts on which the surrender is grounded, she reserves to herself the right to try the fugitive surrendered to her for such crimes (in the plural) as may be proved by the facts on which the surrender is grounded.

This does not seem to be wholly reciprocal, and if the United States were disposed to enter into a treaty under this act, it might expect some greater equality of right than a cursory examination of this provision in the act seems to provide.

It is quite well known that after the passage of the act of 1870 an effort was made to enter into a treaty with Great Britain which should enlarge the number of extradition offenses, and otherwise extend the provisions of the existing treaty.

At the outset it was apparent that the act of 1870 was not an act to carry into effect treaties or conventions for extradition, as is the United States act of 1848, but one providing a system to which all subsequent treaties of extradition must be adapted, and which could be applied to enforce treaties or arrangements made subject to its provisions.

This Government was unable to agree to any arrangement based on the provisions of the act of 1870, and in a note addressed to Sir Edward Thornton, the British minister, under date of January 27, 1871, he was informed that "this Government understands the twenty-seventh section of the extradition act of 1870 as giving continued effect to the existing engagements for the surrender of criminals. Imperfect as they are, in view of the long conterminous frontier between British North America and the United States, we must be content to suffer the inconvenience, until Parliament shall put it in the power of Her Majesty's government to propose a more comprehensive and acceptable arrangement."

The British government was thus distinctly and formally advised of the position and of the views of the United States, and no exception thereto has been expressed.

A further effort to effect a treaty was made in 1873, after the passage by the British Parliament of an act amending the act of 1870, which resulted in failure, for precisely similar reasons.

This failure to negotiate a new treaty arose solely because the United States could not accept as part of it some of the provisions of the act of 1870, and preferred to go on under the treaty of 1842, as theretofore construed, and practically carried into effect by each government; and thus we have proceeded up to the present time.

In support of the construction which this Government in 1871, in the note to Sir Edward Thornton above referred to, gave to the twenty-seventh section of the extradition act, it appears that when the Court of Queen's Bench was called to pass upon the very question, in the case of Bouvier, 27 Law Times, N. S., 844, the attorney-general stated that the intention had been to make a general act, which should apply to all cases except where there was anything inconsistent with the treaties referred to. So far as the point was passed on, the lord chief-justice expressed the opinion that it was the intention, while getting rid of the statutes by which the former treaties were carried out, at the same time to save those treaties in their full integrity and force, and that the result had been accomplished. One of the other justices thought the question somewhat doubtful, and the third agreed with the chief-justice.

The Solicitor-General of the United States, in his opinion in Lawrence's case, given in August of last year, reached the same conclusion, that the treaty was not affected by the act.

It cannot readily be believed that Parliament intended by the act of 1870 to claim the right to alter treaties in existence without notice to the other government, or to impose new conditions upon foreign governments seeking extraditions under treaties in existence prior to that act.

The United States has declined to become subject to the British act of 1870, and with knowledge of this the government of Great Britain has continued constantly to ask and obtain extraditions under the treaty of 1842, and since the refusal of the United States to negotiate a new treaty under the provisions of that act.

Since the passage of the act of 1870 Great Britain has obtained from this Government some thirteen warrants of extradition, and has instituted a much larger number of proceedings to obtain extradition. In no instance has Great Britain thought it necessary to tender any such stipulation as she now asks from the United States, or to present her requests for extradition in any way different from that in which they were presented prior to 1870. The United States in the same time have instituted numerous proceedings, and at this moment have three criminals in London in custody upon charges of forgery, whose extradition this Government is seeking in the usual manner provided by the treaty.

During this period no intimation has reached this Government that the treaty of 1842 was not in full force, or that the act of 1870 was claimed to limit its operation, or to impose upon this Government the necessity either of changing its laws or of giving stipulations not known to the provisions of the treaty, and not heretofore suggested, nor has any representation been made to this Government, by that of Great Britain, on account of any proceedings taken in the case of Lawrence, mentioned in the opinion attributed to the home office, in the note of Lord Derby to General Schenck, before referred to.

But now, with three important cases pending in London at the present time for extradition, in one of which, at least, all the formalities have been complied with, we are informed in substance that it had been supposed up to the present time by the British home office that our law as to trials for other than extradition offenses was in agreement with the law of 1870; but finding it to be otherwise, we are confronted with the requirement of a stipulation in order to obtain what is guaranteed by the treaty of 1842, whereby the United States must recognize the right of the British Parliament, by statute, to change existing executory treaties, and to impose upon this Government conditions and stipulations to which it had not given its assent.

As relates to the particular case of the fugitive Winslow, there is not, so far as I am aware, any intention of trying him for any offenses other than those on which indictments were transmitted, and for which his surrender was demanded; but the United States will give no stipulation of which the treaty does not authorize the demand.

As the stipulation or condition is demanded by Great Britain as a right, the right of the demand must be established.

The President regrets that a condition which, in his judgment, is without any justification under the treaty should have been asked. He regards the question thus presented as of a grave and serious character, on the final solution of which must probably depend the continuance of the extradition article of the treaty of 1842. He cannot recognize the right of any other power to change at its pleasure, and without the assent of the United States, the terms and conditions of an executory agreement in a treaty solemnly ratified between the United States and that power. He thinks that the twenty-seventh section of the British act of 1870 was specially intended to exempt the treaty with the United

States from the application of any of the new conditions or provisions embodied in that act, and to leave that treaty to be construed, and the surrender of fugitives thereunder to be made, as had been previously done.

He hopes that, on a further consideration, Her Majesty's government will see, in the section referred to, the effect which he supposes it was designed to have.

But he recognizes that it is for the British government to construe and enforce its own statutes; and should Her Majesty's government finally conclude that the British Parliament has attached a new condition to the compliance by that government of its engagement with the United States under the tenth article of the treaty of 1842 relating to extradition, requiring from the United States stipulations not provided for or contemplated in the treaty, he will deeply regret the necessity which will thereby be imposed upon him and does not see how he can avoid regarding the refusal by Great Britain to adhere to the provisions of the treaty as they have been reciprocally understood and construed from its date to the present time, or the exaction by that government of a condition heretofore unknown, as the infraction and termination of that provision of the treaty.

You are not authorized to enter into any stipulation or understanding as to the trial of Winslow, in case he be delivered up to justice. His surrender is asked under and in accordance with the provisions of the tenth article of the treaty between the United States and Great Britain of the 9th of August, 1842. He is charged with a crime included within the list of crimes enumerated in the treaty; that crime was committed within the jurisdiction of the United States, and he has sought an asylum and been found within the territories of Great Britain, and the United States have produced such evidence of his criminality as according to the laws of Great Britain would justify his apprehension and commitment for trial if the crime or offense had been committed in Great Britain.

You will communicate the substance of this to Lord Derby, and, should he desire it, you may read it him.

I am, sir, your obedient servant,

HAMILTON FISH.

No. 111.

Mr. Fish to Mr. Hoffman.

[Telegram.]

WASHINGTON, *April* 5, 1876.

HOFFMAN,
Chargé, London:

* * * * * * *

A full reply to your thirty-nine is on the way. It may be advisable to receive it before question is decided; especially if adverse.

FISH, *Secretary.*

No. 112.

Mr. Hoffman to Mr. Fish.

No. 61.] LEGATION OF THE UNITED STATES,
London, April 8, 1876. (Received April 20.)

SIR: Referring to previous correspondence upon the same subject, I have the honor to inform you that Winslow has not yet been surrendered to the United States; neither have I as yet received an answer to my note to Lord Derby of March 8. On receipt of your telegram, day before yesterday, I called upon Lord Tenterden, who, in the absence of Lord Derby, is in charge of the foreign office, and told him that further instructions in the case of Winslow were on the way to me, which I should probably be able to communicate to him early next week. He said that he would so inform the home office.

I have, &c.,

WICKHAM HOFFMAN.

No. 113.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *April* 13, 1876.

FISH, *Secretary, Washington:*

Lord Derby asks if district court has power to try Lawrence for crimes not named in warrant? If so, withdraws proposal for arrangement. Sees no remedy except in act of Congress. Proposes to renew negotiations for new treaty. States that Winslow must be released May second. Copy note sent to-day.

HOFFMAN,
Chargé.

No. 114.

Mr. Hoffman to Mr. Fish.

No. 62.] LEGATION OF THE UNITED STATES,
London, April 13, 1876. (Received April 25.)

SIR: I have the honor to inclose to you a copy of a note which I received this morning from Lord Derby.

His lordship refers to a telegram from New York which appeared in the Daily News of the 29th ultimo, and which he has ascertained from Her Majesty's legation at Washington to be substantially true, to the effect that the United States district court for the southern district of New York had decided that the forger Lawrence can be tried for other crimes than those mentioned in the warrant, and inquires whether the district court at New York has the power to carry out this decision.

In case that it has such power, Lord Derby thinks that it would be nugatory to enter into such an arrangement as he proposed in his note of the 8th ultimo, and sees no solution of the present difficulty except through an act of Congress.

Lord Derby further requests me to express to you the hope of Her Majesty's government that the negotiation of a new treaty of extradition, which may be beneficial to the interests of both nations, may be renewed as soon as possible, and in conclusion calls my attention to the twelfth section of the act of 1870, to the effect that a fugitive cannot be detained in custody beyond two months from the date of his committal, unless the Secretary of State can show sufficient cause for further detention, and adds that therefore, however much Her Majesty's government may regret not being able to comply with the wishes of the Government of the United States, they will be unable to detain him in custody beyond that specified time.

The two months expire on the 2d proximo.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 62.]

Lord Derby to Colonel Hoffman.

FOREIGN OFFICE, *April* 11, 1876.

SIR: With reference to previous correspondence respecting the extradition of Ezra D. Winslow, and especially to the letter I had the honor of addressing to you on the 8th ultimo, in which I stated to you, for the information of the United States Government, that Her Majesty's government would not feel themselves justified in authorizing the surrender of that prisoner until they should have received the assurance of your Government that he should not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in the United States for any offense committed prior to his surrender, other than the extradition crimes proved by the facts on which the surrender would be grounded, I have now the honor to call your attention to the inclosed copy of a telegram which appeared in the Daily News, of the 29th ultimo, and which I have ascertained from Her Majesty's legation at Washington to be substantially correct; and to request that you will be good enough to ascertain from your Government, for the information of Her Majesty's government, whether the district court at New York has the power to carry out the decision it is reported to have arrived at, viz, that the forger Lawrence, who was surrendered to the United States Government under the 10th article of the treaty of 1842, can be tried for other offenses besides those mentioned in the warrant.

In this country the attorney-general would enter a *nolle prosequi*, and so put a stop to further proceedings in any prosecution; but Her Majesty's government are not aware whether the Attorney-General of the United States has similar powers. The reported language of the district court leads them to think that he has not.

If so, it would, in the opinion of Her Majesty's government, be nugatory to enter into an arrangement such as I had the honor of proposing in my letter to you of the 8th of March, above alluded to; and Her Majesty's government see no solution of the present difficulty but the passing of an act of Congress which, while recognizing the acknowledged principle of international law, that a fugitive can only be tried for the crime or crimes for which he was surrendered, will enable the Government of the United States to guarantee that the condition, which Her Majesty's government are compelled to require under section 3, subsection 2, of the act of 1870, will be complied with.

With regard to future difficulties which may possibly arise on the general subject of extradition, Her Majesty's government can see but one satisfactory solution, namely, the conclusion of a more comprehensive treaty between the two countries, and one more suited to the requirements of the day than the existing arrangement.

I have, therefore, to request that you will express to your Government the hope of Her Majesty's government that the negotiation of a treaty which will be so beneficial to the interests of the two nations may be renewed as soon as possible.

In conclusion, I have the honor to remind you that, under the provisions of the twelfth section of the extradition act of 1870, a fugitive cannot be detained in custody longer than two months from the date of his committal, unless the Secretary of State can show sufficient cause for further detention; and that, therefore, however much they may regret being unable to comply with the wishes of your Government respecting the surrender of Winslow, they will be unable to detain him in custody beyond that specified time.

I have, &c.,

DERBY.

[Inclosure in inclosure in No. 62.]

[Daily News, March 29.]

NEW YORK, *Tuesday, 28th.*

The United States district court of New York has decided that the forger Lawrence, who was brought from England under the extradition treaty, can be tried for other offenses besides those mentioned in the warrant. The court cannot regard the order of the President to the contrary, or take notice of any agreement between the English and American governments to that effect.

No. 115.

Mr. Fish to Mr. Hoffman.

No. 874.] DEPARTMENT OF STATE,
Washington, April 21, 1876.

SIR: Referring to my instructions, No. 864, of the 31st ultimo, as to the case of Winslow, whose extradition has been demanded by the United States under the treaty of 1842, I have to state that two cases, in which the Canadian authorities have been called upon to pass upon the very point now under consideration, have come to the notice of the Department, one of which has occurred since that instruction was addressed to you. Of these it seems proper that you should be informed in connection with the general question.

I inclose a memorandum in relation to the case of Rosenbaum, who was extradited from Canada in 1874, and an extract from a dispatch received to-day from Mr. Dart, the consul-general of the United States in Canada, stating the conclusions to which the Canadian authorities have arrived in the case of Charles Worms, who has been delivered up within a very few days past upon a demand made on February 21, 1876.

The Department has not had an opportunity of examining the opinions in these cases, but you will perceive that the conclusions reached appear to fully agree with the position taken by this Government.

Should the question be still open, it would seem that the decisions in these cases should be brought to the attention of the government of Great Britain.

I am, &c.,

HAMILTON FISH.

[Inclosure 1 in No. 874.]

Memorandum.

In the case of Rosenbaum, whose extradition was asked from Canada, January 14, 1874, on a charge of arson, and the warrant for whom was issued in January, 1874, the question that the British act of 1870 applied was raised and discussed, as well as the general question of the right to try an offender for any offense other than the extradition crime. The court examined this ground assumed by the prisoner's counsel, and reference was made to the arguments and judgment in the previous case of Bouvier in the Queen's Bench. The prisoner was committed for extradition, and, in so doing, Ramsay, J., said: "Notwithstanding the plausibility of this reasoning, it fails to convince me. In the first place it goes too far, for if it were recognized as a principle of international law that a prisoner extradited could only be tried for the crime for which the extradition took place, it would not have been necessary for the Imperial Parliament to make these provisions, and it would not be necessary to ask this question. I am not, however, aware that it has ever been laid down in England that a man once

within the jurisdiction of English courts could set up the form of his arrest, or the mode by which he came into custody, as a reason for his discharge when accused of a crime. But even were this otherwise, it is not the international law that it is sought to prove, but the special requirement of a new statute. Now, I cannot conceive how a new provision of the act of 1870 could be consistent with the treaties with France, the United States, and Denmark entered into years before."

No. 116.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *April* 27, 1876.

FISH, *Secretary, Washington:*

If Winslow gets before Queen's Bench on *habeas corpus*, am I to employ counsel? Shall not intervene unless instructed.

HOFFMAN, *Chargé.*

No. 117.

Mr. Fish to Mr. Hoffman.

[Telegram.]

WASHINGTON, *April* 28, 1876.

HOFFMAN, *Chargé, London:*

Counsel on *habeas corpus* seems impracticable in present condition of the case. You will present to Lord Derby copy of eight sixty-four, with a note referring to your previous oral communication thereof, and stating that you do so under instructions, in a final hope of still preserving the treaty, and in the further hope that he may see therein sufficient cause to prevent the discharge of Winslow, and to order his surrender under the tenth article of the treaty of eighteen forty-two, in accordance with the requisition of this Government.

You will further state, in substance, that although the United States does not recognize the statute of eighteen seventy as controlling extradition under our treaty, still, as Great Britain claims to be governed thereby, you hope that his lordship will see in the twelfth section authority for his intervention to cause the surrender in accordance with the treaty.

FISH, *Secretary.*

No. 118.

Memorandum of a conversation between Sir Edward Thornton and Mr. Fish, April 30.

Sir Edward Thornton states that the British Cabinet in regular meeting yesterday, (April 29,) have had under consideration the extradition case of Winslow; and that Lord Derby instructed him to say that he regretted that they had been obliged to adhere to the opinion previously expressed in his notes to the United States *chargé*, and that Winslow

would be discharged on Wednesday next unless the Government of the United States would give assurance that he should not be tried for any offense other than that on which the extradition should be made.

Mr. Fish expressed regret at this decision, and explained to Sir Edward Thornton that the charges against Winslow were for offenses against State laws, and the indictments against him were found in the courts of the State of Massachusetts, not in the Federal courts; and that, without regard to any question of policy, or of right to ask any stipulation or assurance, the President could not restrain the jurisdiction of the courts of any one of the States over offenses against the law of that State, and, therefore, he could not enter into any promise or assurance restricting the power of a State to try a criminal within its jurisdiction for any crime for which he may have been indicted in that State.

No. 119.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *May* 1, 1876.

FISH, *Secretary, Washington:*

Informed by foreign office Winslow will be discharged on third, unless arrangement made. Reply to note promised in few days. Have asked he may be detained till answer received and communicated to you. Meantime matter will come up in Parliament.

Copy eight sixty-four sent Lord Derby Saturday, with note.

HOFFMAN.

No. 120.

Mr. Fish to Mr. Hoffman.

DEPARTMENT OF STATE,
Washington, May 2, 1876.

HOFFMAN, *Chargé, London:*

You were not instructed or authorized to make the request stated in your telegram of first.

FISH, *Secretary.*

No. 121.

[Telegram.]

Mr. Hoffman to Mr. Fish.

LONDON, *May* 2, 1876.

Winslow applies for *habeas corpus* to-morrow. British government will oppose his immediate release. Shall not intervene unless instructed. Papers asked for in House of Commons; refused for the present.

HOFFMAN.

No. 122.

[Telegram.]

Mr. Hoffman to Mr. Fish.

LONDON, *May* 3, 1876.

Winslow applied for discharge. Attorney-general opposed. Case adjourned ten days.

HOFFMAN.

No. 123.

Mr. Hoffman to Mr. Fish.

No. 76.] LEGATION OF THE UNITED STATES,
London, May 4, 1876. (Received May 15.)

SIR: I have the honor to inclose to you copies of all important correspondence which has passed between the British government and this legation on the subject of the extradition of Winslow, since the 20th ultimo.

* * * * * * *

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 76.]

Mr. Hoffman to Lord Derby.

LEGATION OF THE UNITED STATES,
London, April 29, 1876.

MY LORD: Referring to my note of the 20th instant, I have the honor to inclose to you herewith, under the instructions of Mr. Fish, a copy of his dispatch of March 31 upon which my note was based.

I beg to assure your lordship that both Mr. Fish and I understand and appreciate the sad circumstances which have prevented your lordship from receiving me, with a view to my reading to you the dispatch of Mr. Fish.

In forwarding this dispatch, I am instructed to say that it is done in the hope of still preserving the treaty, and with the further hope that your lordship will find therein sufficient cause to prevent the discharge of Winslow, and to order his surrender under the 10th article of the treaty of 1842, and in accordance with the requisition of the United States. I am further instructed to say that, while my Government cannot recognize the act of eighteen hundred and seventy as controlling extradition under the treaty, still, as Her Majesty's government claims to be bound thereby, Mr. Fish hopes that your lordship will see in the 12th section of that act authority for your intervention to cause the surrender of Winslow in accordance with the treaty.

I have, &c.,

WICKHAM HOFFMAN.

The Right Hon. the EARL OF DERBY, *&c., &c., &c.*

[Inclosure 2 in No. 76.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *April* 27, 1876.

SIR: With reference to your note of the 20th instant, I have the honor to state to you that the question of the extradition of Winslow and of the other two persons now in custody, on the requisition of the United States Government, has been again con-

sidered by Her Majesty's government, and that they have come to the conclusion that it will not be in their power to surrender the prisoners unless an assurance is given by the United States Government that they will not be tried in the United States for any offense committed prior to their surrender other than the extradition crimes proved by the facts on which the surrender would be granted.

The period allowed by law for the detention of Winslow expires on the 3d of May, and for that of Brent and Gray on the 28th of May and 21st of June respectively, and they cannot be detained after those dates unless good cause can be shown by Her Majesty's secretary of state for the home department for their further detention.

I shall have the honor of sending a detailed answer to your note in a few days, but I have thought it right to inform you at once of the decision of Her Majesty's government, in order that you may have time to communicate with your Government before the release of the prisoner Winslow.

I have the honor, &c.,

DERBY.

[Inclosure 3 in No. 76.]

Mr. Hoffman to Lord Derby.

LEGATION OF THE UNITED STATES,
London, May 1, 1876.

MY LORD: Referring to your note of the 11th of April, and to mine of the 20th, I have the honor to request that your lordship will take such steps as shall lead to the detention of the fugitive Winslow in custody until I shall have received yourlordship's answer to my note, and have had time to communicate it to Mr. Fish, and to receive his instructions in reply.

I make this request in the interest of justice, and with the earnest hope that means may be found of settling the question unfortunately in dispute between our two governments, and of thus preserving the treaty, and avoiding the turning of great criminals loose upon society to recommence their career of crime.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 4 in No. 76.]

Lord Tenterden to Mr. Hoffman.

Immediate.

FOREIGN OFFICE, *May* 1, 1876.

SIR: I have the honor to acknowledge the receipt of your note of this day's date, requesting that steps may be taken for the detention of the fugitive Winslow in custody for a further period; and I beg leave to state to you, in reply, that I have referred your note to Her Majesty's secretary of state for the home department.

I have, &c.,

TENTERDEN.

In the absence of the Earl of Derby.

[Inclosure 5 in No. 76.]

Lord Tenterden to Mr. Hoffman.

Pressing.

FOREIGN OFFICE, *May* 2, 1876.

SIR: With reference to my letter of yesterday, I have the honor to inclose for your information a copy of a notice, just received from the home office, which has been addressed to that department by Messrs. Wontner & Sons, solicitors, stating that an application will be made to-morrow at twelve o'clock to a judge at chambers for the issue of a writ of *habeas corpus* in the case of E. D. Winslow.

In forwarding this notice, the secretary of state for the home department has informed me that he will endeavor to show cause why the prisoner should not be set at liberty, but that he is unable to guarantee the result.

I have, &c.,

TENTERDEN.

In the absence of the Earl of Derby.

(Inclosure in 5 in No. 76.)

IN THE HIGH COURT OF JUSTICE,
QUEEN'S BENCH DIVISION.

In the matter of Ezra D. Winslow, a prisoner in the house of detentiou under the ex tradition warrant of commitment.

We hereby give you notice that we shall to-morrow, at 12 o'clock, apply to a judge at chambers, by counsel, for an order for the discharge of the above-named Ezra Dyer Winslow, or for a writ of *habeas corpus* directing the governor of the house of detention, Clerkenwell, in the county of Middlesex, to bring up the body of Ezra Dyer Winslow, in order that he may be discharged from custody, he having been in custody under an extradition warrant of committal since 3d March last.

Dated this 2d day of May, 1876.

Yours, &c.,

WONTNER & SONS,

3 *Cloak Lane, Canada Street, Solicitors for the said Ezra Dyer Winslow.*

[Inclosure 6 in No. 76.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *May* 3, 1876.

SIR: With reference to my letter of yesterday's date, I have the honor to inform you that an application was made this morning before Baron Pollock by Winslow's solicitor for his release, but that, on a statement from Her Majesty's attorney-general that negotiations on the subject were going on between Her Majesty's government and the United States Government, the judge remanded the case for ten days.

I have, &c.,

DERBY.

[Inclosure 7 in No. 76.]

Mr. Hoffman to Lord Derby.

LEGATION OF THE UNITED STATES,
London, May 3, 1876.

MY LORD: Referring to our correspondence upon the subject of Winslow, and especially to my note of the 20th instant, I have the honor to call your lordship's attention to two recent decisions in Canada, which have been sent me by Mr. Fish, with instructions to communicate them to you.

Your lordship will perceive that the conclusions reached by the Canadian courts in both cases appear fully to agree with the position taken by the United States Government in this matter.

I have, &c.,

WICKHAM HOFFMAN.

No. 124.

Mr. Hoffman to Mr. Fish.

No. 79.] LEGATION OF THE UNITED STATES,
London, May 6, 1876. (Received May 17.)

SIR: Referring to previous correspondence upon the subject of Winslow, I have the honor to forward to you herewith a copy of a note I received last evening from Lord Derby.

I have, &c.,

WICKHAM HOFFMAN.

[NOTE.—As instruction No. 864, of March 31, had been delivered to Lord Derby and a request made that it be substituted for a note addressed to him by Mr. Hoffman communicating it, this note is taken as a reply to 864.]

[Inclosure.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *May* 4, 1876.

SIR: I had the honor of informing you in my note of the 29th ultimo that Her Majesty's government having again considered the question of the extradition of Winslow, and of the other two persons in custody on the requisition of the United States Government, had come to the conclusion that it would not be in their power to surrender them unless an assurance were given by the United States Government that they would not be tried for any offense other than the extradition crimes on which the surrender would be granted, and that the prisoners could not be kept in confinement beyond the dates fixed by law for their detention.

I shall have the honor in the present note of informing you of the grounds on which this conclusion was based, and I will first consider the present position of the question as represented in the latter part of your note of the 20th ultimo, in which you state that "in 1842 a treaty for the surrender of fugitive criminals was made between the United States and Great Britain. Under it for nearly thirty years fugitives were delivered up on both sides, and tried for crimes not named in the warrant by either party, without remonstrance by the other."

While assenting to the first part of this paragraph, Her Majesty's government take exception to the second, and assert that there is no case within the knowledge of this government in which a prisoner was surrendered by England for one offense and tried by the United States for a different one.

The case of Heilbronn, where it is alleged that a prisoner was surrendered by the United States for one offense and tried for a different one here, was a private prosecution, and no evidence can be found of the attention of the government having been called to it.

As far, moreover, as the language of the statutes in both countries passed for the purpose of giving effect to the treaty of 1842 is concerned, it shows that though that treaty contained no express stipulations on the question of the trial of persons surrendered under it for crimes other than the extradition crimes of which they were accused before the surrendering authorities, the secretaries of state in either country were only empowered to deliver up extradition prisoners to be tried for the crime for which they had been accused in the country delivering. (See 6 and 7 Victoria, c. 76, 3, and act of Congress August, 1848, chap. 147, s. 3.)

Her Majesty's government cannot assent to the proposition that the English extradition act of 1870 imposed a new condition upon the treaty of 1842. They maintain that if that act had never been passed, it would have been the duty of Her Majesty's government, under the act of 6 and 7 Victoria, cap. 76, upon which the treaty then rested, and the general law of extradition, to have protested against any extradition prisoner being tried in the United States for crimes other than those of which he was accused in this country, and had that protest been disregarded by the Government of the United States, the British government would have been equally bound to require an assurance in any subsequent case that a prisoner would only be tried for the crime or crimes for which he was surrendered.

And while dealing with this part of the case, I would ask how the United States Government is prepared to reconcile the views expressed in your note in favor of the assertion of the right of asylum for political offenses with the principle you have been instructed to advocate.

There is no principle of international law more clearly admitted than that advanced by you, that each state is judge of its own administration of justice; and, with regard to the right of asylum for political offenses, it is clear that the nation surrendering is to be the judge of what is or is not a political offense, the more so because opinions differ in different countries on this question.

But if the principle contended for in your note be correct, what is to prevent the United States Government from claiming a prisoner from this government for an extradition crime and trying him afterward for an offense which in this country would be deemed a political offense, but which in the United States might be viewed under a different aspect?

Her Majesty's government believe that the only test and the only safeguard for the liberty of the individual and the maintenance of the right of asylum are to be found in the principle for which they contend, that the crime or crimes of which a man is accused in the country surrendering, which are proved against him there, and for which he is surrendered, are the only crimes for which he ought to be tried in the country claiming, and that without this safeguard the liberties of the subject and citizens of the two nations might be jeopardized and put into the power of political parties or of the vindictiveness of the receiving government, who, *ex consessis*, is not the proper judge of whether a particular offense is a political one or not. And here I must observe, with reference to your comment on the words "deliver up to justice," that if those words can be construed as having the extended meaning for which you contend, namely, "de-

liver up to justice generally," there would be no object in having a list of extradition crimes for which alone an accused person can be claimed, and the construction would be in direct opposition to the act of Congress of August, 1848, chap. 147, sec. 3, and 6 and 7 Vict., chap. 76, sec. 3, "to be tried for the crime for which he is so accused," the word being identical in both acts.

I now proceed to consider the effect of the extradition act of 1870, and I will state at once that Her Majesty's government do not contend that any of the provisions of that act have any force or effect in any foreign state.

They look upon that act only as declaratory of the law that is to govern the British government in the matters to which it refers, and they consider that none of its provisions are inconsistent with the treaty of 1842, section 27.

It is to be regarded as intended to prevent for the future the evils that were pointed out by Mr. Hammond and others as having occurred, and being liable to occur, in private prosecutions to which the attention of government had not been called.

Her Majesty's government consider the provisions of the act as having been devised, not in the particular interests or for the particular ends of Great Britain, but as the embodiment of what was the general opinion of all countries on the subject of extradition, and as being beneficial to all and injurious to none.

That the general opinion of European nations has justified this view is proved by the acceptance, by most of the leading nations of Europe, of extradition treaties based upon its provisions.

The attention of the United States Government was drawn to the provisions of the act immediately after it became law, as is shown by Sir E. Thornton's communication to Mr. Fish of the 22d of September, 1870; and it is evident that Mr. Fish's notice was called to the effect of the restrictions of clause 3, subsection 2, from the question which he shortly afterward put to Sir E. Thornton, whether it would be possible that a stipulation could be inserted in any new convention, that if, during the trial of a person whose extradition had been asked for on a minor crime, such as larceny, evidence previously unknown should appear that a prisoner had been guilty of a higher crime, such as murder, it should be legal to try him for the latter crime. To this question Sir E. Thornton, by instruction from Her Majesty's government, returned the following answer in writing:

"That any provision in the treaty, by which a fugitive surrendered for one offense mentioned in the schedule may be tried for any offense committed prior to his surrender, other than the extradition crime for which he was surrendered, would be inadmissible. Indeed the treaty, if it is to be carried out, must contain a provision exactly to the opposite effect."

The draught of a new convention between the two countries was afterward prepared, and article VI of that draught, as it originally stood, was as follows:

"When any person shall have been surrendered by either of the high contracting parties to the other, such person shall not, until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offense committed in the other country prior to the surrender other than the particular offense on account of which he was surrendered."

Although much discussion took place on different provisions of this draught-convention, and considerable alterations and modifications of the original draught were proposed by the United States Government and adopted by the British government, not one word of objection was ever raised by the United States Government to article VI. The only proposal made by them with reference to the article was the addition, at the end of it, of the words "No person shall be deemed to have had an opportunity of returning to the country whence he was surrendered until two months at least shall have elapsed after he shall have been set at liberty and free to return;" which was assented to by the British Government. The terms of that convention were, in fact, with one exception, virtually agreed upon by both governments; that exception was a difference which arose upon article VII, relating to political offenses.

The original article was to the effect that "No accused or convicted person should be surrendered if the offense in respect of which his surrender is demanded shall be deemed by the party upon whom the demand is made to be of a political character, or if he prove to the satisfaction [of the police magistrate, or of the police judge, or commissioners named in article III of this treaty, or of the court before whom he is brought on *habeas corpus*, or] of the Secretary of State, that the requisition for his surrender has, in fact, been made with a view to try or to punish him for an offense of a political character."

The United States government proposed to leave out the words between brackets, and thus restrict the power of deciding as to what was a political offense to the Secretary of State alone.

To this the British government could not agree, as the effect would have been to deprive an accused of his right to *habeas corpus;* to take away from him the power of proving at once his right to be set at liberty and of taking the objection in the first instance before the tribunal before whom he was brought immediately on his arrest.

This would be contrary to the spirit of English law, entirely apart from the extra-

dition act of 1870; would have been a direct blow to the liberties of persons claiming asylum in this country; would put it in the power of a Secretary of State to keep an accused person in prison who ought to have been set at liberty at once, and who ought to have the opportunity given him of claiming his right to be set at liberty at the very first moment that he was charged before any tribunal.

It was for these reasons that the British government declined to accede to the proposal; and, if the rights of an accused, which were well known and established in this country long before the extradition act was passed, are secured to him, there is not, as far as Her Majesty's government are aware, any other matter of difference between the two governments which would prevent that convention being signed at the present moment.

It does not, therefore, appear how, in any respect, the act of 1870, erected an insurmountable barrier in the way of a convention, as alleged in your note.

It appears, therefore, that the provisions of the extradition act of 1870 and the powers of the British government under it having thus been clearly brought to the notice of the United States Government, both countries continued, without any question, mutually to surrender persons accused of crimes within the treaty of 1842.

No case arose in either country, to the knowledge of the British government, in which any departure was made from the usual practice, and no prisoner was ever, to the knowledge of the British government, tried for any offense other than that of which he had been accused in the country surrendering.

Her Majesty's government, therefore, contend that they and their predecessors were justified in considering that, by the tacit and implied consent of each country, this practice would be continued, and that it was not necessary to ask for any positive arrangement to secure that object.

So convinced was the secretary of state for the home department that this was the case, that, when in the first instance his attention was drawn to the intention to try Lawrence for smuggling by the solicitors who had acted for him in this country, the reply given to them was, that the Secretary of State could not assume that the Government of the United States, in the face of their general understanding and in view of their act of Congress of August 12, 1848, chapter 147, section 3, would ever think of acting in a manner so contrary to their own law and to the general law of extradition in all countries as to try an extradition prisoner for any other crimes than the extradition crime of which he had been accused in the country which delivered him up.

On the 9th of December, Sir E. Thornton informed Mr. Fish that, as the question had been raised in Lawrence's case, it might be difficult for the British government to surrender criminals hereafter, unless Her Majesty's government was assured by that of the United States that the surrendered criminal should be tried only for the crime on which his surrender was demanded, and it cannot, therefore, in fairness, be alleged that Her Majesty's government deferred raising the question until there were three important cases of extradition pending. With reference to the allusions which you make to the case of Bouvier, it is to be observed that the point decided in that case was that under the provisions of the French treaty, (identical so far as the point is concerned with the United States treaty,) unless it had been proved to the court that the French law had provided that Bouvier could not be tried for any other offense than that for which he was surrendered, Bouvier could not have been delivered up under the extradition treaty with France, which contained no such stipulation.

The attention of Her Majesty's government has been called to the letter addressed by the Attorney-General of the United States to the United States district attorney for the southern district of New York on the 22d December, 1875.

The letter is as follows:

"SIR: Application is again made to me in the Lawrence case, with a long record and an opinion of Judge Benedict.

"I now repeat what I have heretofore written with carefulness and urgency, and what I carefully tried to impress upon you when I saw you here, that, for grave political reasons, Lawrence must first be tried upon the charge upon which he was extradited, and upon no other, until that trial is ended, and whether subsequent proceedings for other crimes shall or shall not be taken, must await the order of the President.

"Now, upon an examination of the papers, it is perfectly easy for you and the court to determine upon what charge Lawrence was extradited, and to proceed to try upon that charge, and that only.

"This is a matter of great importance, and you must not blunder in it. There are consequences involved in it of a serious nature, as I have already told you, and we want to proceed in strict conformity with international law and international courtesy; therefore I merely add, try him first upon the charge for which he was extradited, and for that only.

"This instruction is so specific and so definite, that it does not seem possible that an honest mistake can be made in this case.

"EDWARDS PIERREPONT,
"Attorney-General."

The question then arises whether the United States Government has, through the Attorney-General, power to stay proceedings in a prosecution which in his opinion is contrary to international law and international courtesy.

It appears from the last passage of the judgment of Judge Benedict, delivered on the 27th of March last, that the Government has such power by reason of its legal control over the prosecuting officer.

In the course of the same judgment the judge draws attention to the "political" aspect of the case, as distinguished from the judicial, and this distinction is material to be kept in view, when cases are cited to show that courts have taken a course in one or two cases, without showing that such a course was ever brought to the knowledge of the governments concerned.

This distinction was aptly illustrated in the late case of Blair, who was inveigled by a British subject, with the assistance of American officers, from the United States, and tried at Liverpool for fraudulent bankruptcy, and sentenced to eighteen months imprisonment.

Mr. Justice Miller, before whom this man was tried, took the same view as Judge Benedict, that it was not for the court before whom a prisoner was brought to inquire how he came before it. But, as soon as the facts were brought to the knowledge of the government, and an inquiry had been made, although it was not clear whether the trick by which J. H. Blair was removed from the jurisdiction of the United States was the act of the British subject or of the American officers, the British government at once released Blair and sent him back to America, paying his expenses to the place from which he had been brought.

In a letter from the United States Attorney-General, he states: "We want to proceed in strict conformity with international law and international courtesy."

What, then, is the international law on the subject?

Her Majesty's government maintain that there is no country in the world which claims the right now put forward by the United States Government.

It will be found that France, which has the largest experience in extradition law and practice, and the largest number of extradition treaties with other countries, has never claimed such a right, whether there was any stipulation in the treaty to that effect or not; and that no country can be pointed out which puts forward such a claim.

Her Majesty's government must, therefore, adhere to the decision which they have maintained from the very first moment that they were assured of the intention of the United States Government to try Lawrence for other than the extradition crime for which he was surrendered. They have always regarded the claim so to try him as a breach of the treaty of 1842, and they have nothing to add to the opinion expressed in my notes to General Schenck and yourself of the 29th of February and the 11th ultimo.

Her Majesty's government deeply regret that there are two other cases which must follow their decision in regard to the case of Winslow; but they can only interpret Mr. Fish's views as conveyed in your note of the 20th ultimo as a distinct assertion of the right of the United States Government to try Lawrence for any offense whatever, and as a distinct refusal to come to any arrangement that Winslow and the other extradition prisoners now in custody here shall not be treated in a similar manner.

Her Majesty's government must act as the law of England and the practice of all other countries require them to act, and can only express their deep regret that the operation of a treaty, which, limited as it was, has worked for the mutual benefit of both countries, should be in danger of being so unnecessarily terminated.

They will not abandon the hope that the United States Government may yet consent to give such assurances as will enable the two governments to maintain it unimpaired.

I have, &c.,

DERBY.

No. 125.

Mr. Hoffman to Mr. Fish.

No. 82.] LEGATION OF THE UNITED STATES,
London, May 11, 1876.

SIR: I have the honor to inclose to you copies of two notes I have received from Lord Derby upon the subject of the extradition of Winslow.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 82.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *May* 5, 1876.

SIR: The note which I had the honor to address to you under yesterday's date contained the answer of Her Majesty's government to the letter which, by direction of your Government, you addressed to me on the 20th instant. Since my note was prepared I have received from you a copy of the dispatch from Mr. Fish, dated the 31st of March, on which your letter was founded.

This dispatch has been communicated to Her Majesty's secretary of state for the home department, who has requested me to call your attention to the passage in Mr. Fish's dispatch in which, alluding to Lawrence's case, he says that "although not arraigned on any other indictment than for the forgery for which he was extradited, the British home office has raised the question that he may be possibly tried upon other charges and for other crimes."

The home secretary wishes to observe upon this, that no question was raised by him until he was satisfied that Lawrence had been indicted, although not yet arraigned, for the offense of smuggling, and that Mr. Fish had signified to Sir E. Thornton that the United States Government claimed the right to try him for other offenses than that for which he was surrendered.

Information to this effect was received from Her Majesty's minister at Washington on the 28th of November.

I have, &c.,

DERBY.

[Inclosure 2 in No. 82.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *May* 6, 1876.

SIR: I referred to Her Majesty's secretary of state for the home department your note of the 3d instant, in which you called attention to some recent cases of extradition from Canada, and I have the honor to state to you that I have been informed, in reply, that the home secretary has nothing to add to his former opinion upon the case of Winslow, except that he differs from the opinion of the Canadian judges, in the cases referred to, and that he would wish your attention to be called to a different decision in the case of the Lennie mutineers heard yesterday, at the Old Bailey, where Mr. Justice Brett held that a prisoner delivered up under the French extradition treaty for murder could not be put on his trial for being an accessory after the fact.

I beg leave also to refer you to the views already expressed in my note of the 4th instant, as to the distinction to be drawn in these cases between that which is within the province of courts and that which belongs more properly to governments to decide.

I have, &c.,

DERBY.

No. 126.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *May* 12, 1876.

FISH, *Secretary, Washington:*

Am notified government will oppose discharge of Winslow to-morrow on ground you have not received note of 4th May, and with hope that arrangement may yet be come to.

HOFFMAN.

No. 127.

Mr. Hoffman to Mr. Fish.

No. 84.] LEGATION OF THE UNITED STATES,
London, May 13, 1876. (Received May 24.)

SIR: Referring to previous correspondence upon the subject of Winslow, I have the honor to forward to you copies of two notes I have received from Lord Derby upon this subject.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 84.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *May* 10, 1876.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, stating that Mr. Fish requests that your note of the 20th instant may be considered as withdrawn, and that his dispatch of the 31st of March, which was forwarded to me in a note from you dated the 29th (not 27th) ultimo, may be substituted for it.

I have, &c.,

DERBY.

[Inclosure 2 in No. 84.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *May* 11, 1876.

SIR: With reference to my letter of the 3d instant, acquainting you that Winslow's case had been remanded for ten days, on the application of the attorney-general, I have the honor to state to you that I have been informed by Her Majesty's secretary of state for the home department that the attorney-general will be instructed to ask for a further postponement of Winslow's release when the next application is made to the judge, on the expiration of the postponement granted when the former application was made.

Her Majesty's government are most anxious that nothing should be wanting on their part to keep alive the possibility of coming to an arrangement with the United States Government on the extradition question now pending between them; and the ground on which the judge will be asked for a further postponement will be that there has not yet been time for Mr. Fish to have received the answer to his dispatch of the 31st March, which was sent to you on the 4th instant.

The home secretary is, of course, unable to say whether the judge will accede to this application; but, in notifying that it will be made, he has expressed his extreme regret that there should be any risk of a cessation of the satisfactory working of the extradition treaty of 1842, which has been of such great mutual benefit to both countries.

I have, &c.,

DERBY.

No. 128.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *May* 20, 1876.

FISH, *Secretary, Washington:*

Lord Derby suggests I should remind you, as matters stand, Winslow will be released Tuesday; asks if you have any communication to make. Says they would be happy to consider it.

HOFFMAN.

No. 129.

Mr. Fish to Mr. Hoffman.

[Telegram.]

WASHINGTON, *May* 20, 1876.

HOFFMAN, *Chargé, London:*

Lord Derby's note not received until 17th instant. Public journals report the attorney-general as having said, on 13th, on asking Winslow to be remanded for ten days, that unless reply were received within that time, no further detention would be asked. Lord Derby's note cannot be replied to by telegraph; no other mode of transmission could put it in London by the 23d.

If the British government is determined to refuse to surrender the fugitive, except on receiving the stipulation demanded, it is right to say to Lord Derby that it is impossible to give the stipulation. The President has not the power, if he were disposed to do so, as will be explained in a reply to his note, now being prepared, and which will be forwarded at an early day.

You will read this to Lord Derby.

FISH,
Secretary.

No. 130.

Mr. Fish to Mr. Hoffman.

No. 887.] DEPARTMENT OF STATE,
Washington, May 22, 1876.

SIR: Your No. 79, under date of May 6, inclosing a copy of a note addressed to you by Lord Derby, in relation to the extradition of Winslow, bearing date May 4, reached me late on the 17th instant.

This note of Lord Derby's on its face is a reply to a note from you to him, wherein you communicated the general purport of an instruction addressed by me to you, under date of the 31st of March last; but on the 29th of April last you had given to Lord Derby a copy of the instruction of 31st of March. His lordship's note of the 4th of May is therefore taken as a reply to that instruction, although it contains allusion to some expressions in your note which were not there in pursuance of your instruction.

If Her Majesty's government had simply persisted in a refusal to dedeliver Winslow and the other criminals now in custody awaiting extradition, for the reasons heretofore given, it would have been unnecessary to prolong discussion, inasmuch as the distinct and definite refusal of this Government to give any assurance or stipulation not called for by the treaty, or to admit the right of Great Britain to exact from the United States stipulations foreign to the treaty, as a condition of the performance by Great Britain of her obligations, had already been communicated to Lord Derby.

But as the note in question assumes to give the grounds on which the refusal to surrender the criminals is based, and in large measure seems to change those previously assumed, and as the United States cannot assent to the accuracy of many of the statements made, or to the infer-

ences drawn therefrom, it seems necessary that some reply should be made.

In my instruction of the 31st of March last, reference was made in detail to numerous cases decided in the courts, and to evidence from various sources, alike British and American, including the testimony of British officials best versed in extradition law, the opinions of British Crown lawyers, the published decisions of British courts and British writers upon extradition law, that where a criminal was in good faith demanded for one offense within the treaty, and surrendered therefor, there was no agreement, understanding, nor practice that he might not be placed on trial for another offense with which he was charged, in addition to the extradition crime.

Lord Derby does not explain, modify, or deny that this whole current of authority is to this effect, but meets the point with the assertion that "there is no case within the knowledge of this [the British] government in which a prisoner was surrendered by England for one offense, and tried by the United States for a different one," and states that the case of Heilbronn was a "private prosecution," and that no evidence can be found of the attention of the government having been called to it. In a subsequent passage he again speaks of "private prosecutions," to which the attention of the government has not been called. I am at a loss to appreciate the application of the term "private" to the prosecution of a felony in the name and behalf of the state or sovereign. If, however, it means no more than what is claimed when it is said that the attention of the government had not been called to a particular case, the question arises as to that jealous protection of individual and personal rights which is the just pride of British as it is of United States laws, and which constitutes so large a part of Lord Derby's note. The alleged criminal in whose behalf the state has exercised its sovereign power, whom it has seized and brought from a distant land under solemn treaty obligations, is especially entitled to be looked after by the state, and be protected in such rights as belong even to the criminal.

If Lord Derby's theory that the prohibition of the trial of a surrendered fugitive, for other than the specific crime for which he had been delivered, be correct, either as a recognized principle of the general or international law of extradition, (if there be any such agreement between nations on the subject of extradition as to form what can be regarded as "international law,") or as implied in the treaty of 1842, then a surrendered fugitive is, under such international law, (if such it be,) or under such treaty, placed in the hands of the receiving government with the highest obligations of honor, of justice, and of international faith to protect that fugitive from any other prosecution than such as that government claims that he is liable to.

The fugitive is surrendered to the government in its political capacity, and if he be subjected to any prosecution against which he has a right to immunity, the government, into whose especial charge and guardianship he has been surrendered for a specific purpose, violates its faith and neglects its duty, both to the individual surrendered and to the state which surrendered him. On the theory advanced by his lordship, the surrendered fugitive must look to the state in its political character —what Lord Derby calls "the government"—for his protection; and that power, call it state or government, cannot escape its responsibility by the plea of ignorance, and that its attention had not been called to the case.

Heilbronn was a fugitive criminal demanded by Great Britain under the treaty of 1842, on the charge of forgery, and was accordingly deliv-

ered up by the United States to British justice. He was tried for forgery before a British court and acquitted, and was thereupon indicted and tried for a public offense not named in the request or warrant of extradition, and one not included in the treaty, and he was thereof convicted.

If, under British jurisprudence, no public prosecutor is provided to enforce her law against criminals surrendered on a demand made upon a foreign state, and the duties of a prosecutor are discharged by an individual not technically a servant of the Crown, but permitted to assume that office, can the government of Great Britain claim or expect that the regular proceedings in her courts can be disavowed by the political branch of the government as not having been brought to its attention, or that such proceedings form no element in determining what has been the practice of the two governments under the treaty?

Heilbronn's case was not referred to as an exceptional one, but as one of the numerous instances all tending to prove the unbroken practice and understanding of the two governments.

In addition to Heilbronn's and the other cases heretofore referred to by me, there are other and recent decisions of distinguished British judges directly upon the point, and in full harmony with the views maintained by the United States.

Mr. Justice Ramsay, in the case of Israel Rosenbaum, in the supreme court of Canada, in 1874, when the discharge of the prisoner was claimed because there was no prohibition under the laws of the United States against the trial of criminals for offenses other than those for which they were extradited, as was required by the act of 1870, says:

"If it were recognized as a principle of international law that a prisoner extradited could only be tried for the crime for which the extradition took place, it would not have been necessary for the Imperial Parliament to make these provisions," (alluding to the provisions of the act of 1870,) and adds, "I am not, however, aware that it has been laid down in England, that a man once within the jurisdiction of English courts could set up the form of his arrest, or the mode by which he came into custody, as a reason for his discharge when accused of crime;" and the same was substantially held in the case of Worms, extradited from Canada within the last few weeks.

It is not the province of any government to make inquiry into the extent of knowledge which the political department of another government may have as to the practice or the administration of justice in its courts in reference to extradition, but I have alluded in prior instructions to the uniform practice, without dissent or objection, in both countries under the treaty of 1842, and have shown that it was common in both countries, and that it was held by high judicial decisions in both, that a prisoner, extradited in good faith for an extradition crime, might also be tried for another crime.

Lord Derby, in his note, again refers to the provisions of the act of Congress of August 12, 1848, as showing that persons delivered up could not be tried for any offenses other than those for which they were surrendered; although in my former instructions I stated that the United States district court, and the Solicitor-General, acting in the place of the Attorney-General, had each separately decided precisely the opposite. The construction of the municipal laws of a state pertain to that state, and not to other governments.

In the United States, a treaty, duly ratified and exchanged, is the supreme law of the land, and its provisions are binding without legislation. It becomes convenient, however, from time to time to enact laws

to regulate the general course of proceedings arising under one or a variety of treaties; but such legislation is purely internal and municipal.

The act of 1848 recognizes the fundamental doctrine that the surrender of a fugitive criminal is a political act of the Government, and the function of the court or magistrate is only to determine whether a case has been made out in accordance with the treaty or the statute enacted in aid of its enforcement. It neither adds to nor detracts from the obligations created by the treaty, and is not essential to the execution by the United States of its engagements under the various extradition treaties into which this Government has entered, but affords a convenient and satisfactory aid in the administration of those obligations.

When the United States, by the twenty-seventh section of the treaty of 1794, in much the same language as the present treaty, engaged to deliver up fugitives, no act whatever was passed, but fugitive criminals, nevertheless, were given up on the demand of Great Britain under that provision of the treaty.

In like manner when the tenth article of the treaty of 1842 went into effect, no statute was needed, but six years thereafter (in 1848) the act in question was passed as being thought advisable to provide machinery to carry out all treaties providing for extradition, not only with Great Britain but with all governments with which the United States had and might have treaties, no matter what may be their particular provisions.

Of these treaties, some, as I have said, contain restrictions as to the crimes for which a criminal may be tried by the state demanding him, and others are silent on the question; but the act applies to all.

Lord Derby, in his note to you, contends that the British extradition act of 1870 imposed no new condition upon the treaty of 1842, but in his note of April 13 he refers to the condition "which Her Majesty's government are compelled to require under section 3, subsection 2, of the act of 1870."

When it is proposed to engraft, whether by implication or by act of Parliament, upon an existing treaty, a provision not expressly contained therein, I may be permitted to look into the debates in the British Parliament in 1866, when it was proposed to amend a bill to carry into effect the treaty with France, by requiring a stipulation similar in its purport to that now asked of the United States, and there find that his lordship, at the time Lord Stanley, and then, as now, Her Majesty's secretary of state for foreign affairs, opposed the amendment, saying that "in a case like this, international courtesy demanded that the treaty should not be materially altered without communication with the other party."

In the same debate, Lord Cairns, then attorney-general and now lord chancellor, said that the bargain was made between the sovereigns, and the amendment "proposed to introduce a new ingredient into the bargain which did not exist at the time the bargain was made. It might have been unreasonable that this new ingredient had not been introduced at the beginning, but to introduce it now was simply to break the bargain which the sovereigns had made and Parliament had ratified; it was to infringe upon treaty engagements, and that without notice to the other side." And further, and in particular reference to the latter part of the amendment, quite similar to the provisions of the act of 1870, now under discussion, he said, "to put such words into an act of Parliament, which did not exist in the treaty, would only be offering a

gratuitous insult to the foreign power to whom it applied, without securing any real advantage." The amendment was withdrawn.

The treaty between Great Britain and France, which was the subject of that debate, was, like that between Great Britain and the United States of 1842, silent as to an inhibition of the prosecution of a surrendered fugitive for other than the specific offense for which he was given up. The proposition in Parliament thus sternly and honestly denounced and defeated as "discourteous," as "breaking a bargain," as "infringing upon treaty engagements," as "a gratuitous insult to a foreign power," and as "securing no real advantage," is, nevertheless, what it is now claimed has been done by virtue of the act of 1870 with regard to the United States.

Her Majesty's Court of Queen's Bench in Bouvier's case, and more recently the courts in Canada, have substantially held the same high doctrine which the eminent statesmen whom I have cited not long since announced in their places in Parliament. Neither international law nor international courtesy have changed the principles on which they were then recognized as resting.

The United States adheres to the position announced in my former instruction, that it will recognize no power to alter or attach conditions to the executory parts of an existing treaty, to which it is a party, without its previous assent.

Lord Derby seems to imagine some want of reconciliation between the views of the United States upon this extradition question and those asserted in its behalf on the rights of political asylum, and asks what is to prevent the United States from obtaining a prisoner on one charge and trying him for a political offense. The answer is ready:

The inherent, inborn love of freedom, both of thought and of action, engraved in the hearts of the people of this country so deeply that no law can reach and no administration would dare to violate.

A large proportion of those who sought refuge on our shores prior to the formation of this Government, sought this country for the enjoyment of freedom of opinion on political and religious subjects, and their descendants have not forgotten the value of an asylum nor the obligation of a state to shelter and protect political refugees. Neither the extradition clause in the treaty of 1794 nor in that of 1842 contains any reference to immunity for political offenses, or to the protection of asylum for political or religious refugees. The public sentiment of both countries made it unnecessary. Between the United States and Great Britain, it was not supposed, on either side, that guarantees were required of each other against a thing inherently impossible, any more than, by the laws of Solon, was a punishment deemed necessary against the crime of parricide, which was beyond the possibility of contemplation.

That a sentiment stronger than written law has been sufficient to prevent any attempt to infringe on this right, it is but necessary to recall the political events occurring in England, in Ireland, and in the United States since the treaty of 1842 has been in force, the attempted and actual rebellions which have been witnessed, and the consequent exodus of parties engaged, and yet not a demand by either government upon the other for the surrender of a fugitive for a political offense. In this respect, what has been must continue to be.

Careful as this Government has been and will be to maintain the right of asylum for political and religious refugees, it is mindful of the duty to its own citizens and to society at large devolving upon a state to visit punishment upon offenders against the laws—a duty in no way antagonistic to the preservation of the right of asylum.

The rights of society and the duties of the state in the punishment of criminals should not be narrowed and unduly restricted upon the vague suggestion or fear that at some time some political criminal may be placed in jeopardy.

The duty of Government to protect its own citizens and punish crime is equally a duty with that of affording hospitality and shelter to political offenders from abroad.

The Government of the United States sees no reason why either should be sacrificed to the other, any more than why all criminals should escape for fear some political offender may suffer.

His lordship believes that the only test and safeguard for the liberty of the individual and the maintenance of the right of asylum are to be found in the principle for which he contends, that the crime or crimes of which a man is accused in the country surrendering, and for which he is surrendered, are the only crimes for which he ought to be tried in the country claiming.

Differing with his lordship, I think that the liberty of the individual and the right of asylum would be equally guarded (independently of any reliance on common principles and on the good faith of both nations) by a treaty providing that a surrendered criminal shall be tried for none other than one of the several crimes enumerated in the treaty, and for which each government is willing to surrender. The fugitive would thus be effectually protected against trial for a political offense, justice would be more effectually administered, and crime be allowed less chance of escape.

The United States would not object to such limitation in any treaty which it may be called upon to negotiate with a foreign state. But, with the limitation proposed by Lord Derby, it is possible that if a criminal be surrendered on a charge of murder, and if the evidence developed on the trial establish only manslaughter, he might consequently escape; or if one be charged with assault with intent to kill, and after the issuing of the requisition or of the warrant the victim dies, it is doubted whether in this case, under the common law of England, which obtains also in most of the United States, the fugitive could be convicted of assault, &c., and not having been surrendered for murder, the doctrine contended for would protect him from trial on such charge.

I should not here again advert particularly to the British act of 1870 but that Lord Derby's note seems to invite some examination of its provisions, and that he alludes to the abortive efforts made since its enactment to negotiate a new treaty of extradition between the United States and Great Britain, and (as he seems to claim) under its provisions.

In 1870, Great Britain had three treaties of extradition—with France, Denmark, and the United States.

Owing to difficulties presented by British law, the treaty with France had been, at least between 1843 and 1866, practically a dead letter; the treaty with Denmark has (as has been represented) rarely been resorted to, if at all.

The English practice as to extradition had been with the United States under the treaty of 1842. What that practice had been I have shown.

Great Britain at this time determined to establish a system of extradition, applicable to all governments, for her convenience, and in order to save the difficulty which had been experienced in obtaining the assent of Parliament, or in providing the means of carrying out a treaty, and in substance proposed to define under what limitations and conditions extradition ought to be and might be had.

It was her right to propose a system and to invite foreign states to accede to her views and make treaties thereunder. The general system, however, was anomalous. It applied the same restrictions to a Christian or a non-Christian state, and left no opportunity to suit a particular treaty to the particular demands of two governments. Soon after the passage of the act of 1870, a proposition was made to the United States to make a treaty thereunder, and after some examination the proposition was declined.

In 1873, an amendatory act was passed, and further application being made, a negotiation was inaugurated.

Difficulties were experienced at the outset, and at every stage, growing out of the system which had been adopted and the inflexible character of the provisions of the act. Various drafts were from time to time prepared at the British foreign office, and discussed, with an effort to reach an agreement. In these drafts it was proposed that a criminal should not be tried for any offense committed prior to his surrender, other than the particular offense on account of which his surrender was made; and while an effort was made to extend the right to try a criminal to any of the extradition crimes named in the treaty, and to any higher crime than that for which he was surrendered, the effort was abandoned because the United States was informed that under the act a provision was inadmissible by which an offender surrendered for one offense named in the schedule could be tried for any other than the extradition crime. The negotiation was continued, however, until June, 1874, when the United States reached the conclusion that a treaty could not be negotiated under the act.

That this Government ever reached or expressed the opinion that this act was the embodiment of what was the general opinion of all countries on the subject of extradition, is far from correct.

On the contrary, the United States was and is of the opinion that, as the provisions in a treaty placing limits on the right of a foreign state to try extradition criminals are chiefly inserted to protect political refugees, it amounts to a surrender of criminal justice to that principle to limit the right to a trial for the single particular crime named in the warrant of extradition, but that a proper limitation might be made by providing that the criminal shall be tried for no political offense, and for no crime not an extradition crime.

Such is understood to be the provision in almost all the French treaties negotiated with European powers; such was substantially the provision in the treaty negotiated between Great Britain and France in 1852, and such is the express provision inserted in the treaty negotiated between the British island of Malta and Italy in 1863, and approved in Great Britain.

From the earliest period this Government has had occasion to consider the questions arising under extradition law; the Articles of Confederation having extradition provisions, as has the Constitution of the United States, governing the question between the States of the Union; and while the United States do not profess to lay down rules of international law on this question, this Government does not consider it now for the first time, nor has its jurisprudence been silent in developing the system. In the negotiation referred to, the attention of the Government of the United States was directed to the proposed treaty more than to the act, looking to its provisions as binding on the government of Great Britain, entirely irrespective of the act in question.

But many of the provisions of the act did not, and do not, seem to be reciprocal, and appear to furnish excuses for a failure to perform an

obligation imposed by a treaty made thereunder, or a shelter for a responsibility which naturally belonged to the government.

In view of the position assumed by Great Britain during this controversy, by which treaty provisions are practically made subservient to acts of Parliament, the difficulty and want of reciprocity in making any treaty thereunder become more apparent.

It is not my intention to attempt to critically examine this British statute, but it will not be inappropriate to refer to some of these provisions.

Her Majesty's government reserves to itself the right by section 2, after an arrangement has been made with a foreign state, by the order in council applying the act, or by any *subsequent* order to "limit the operation of the order," to restrict the same, and to "render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient."

Again, section 2, subdivision one, provides that a fugitive criminal shall not be surrendered for a political offense, "or if he prove to the satisfaction of the police magistrate, or the court before whom he is brought on *habeas corpus*, or to the secretary of state, that the requisition for his surrender has in fact been made with a view to try or punish him for an offense of a political character." In substance, therefore, the criminal may take two appeals from the decision of a police magistrate on this question, and, provided he succeeds on any application, he may be discharged; but no provision is made for an examination of the question in any quarter, should the police magistrate decide in favor of the criminal. In such event a question, which is purely one for the government to deal with, is remitted to a police magistrate, and should he improperly decide, the government is sheltered by a quasi judicial decision, and this of an officer not necessarily of a high grade.

Again, section 2, subsection three, provides that a fugitive criminal shall not be surrendered unless provision is made by law in the foreign state, or by arrangement, that he shall not, until he has had an opportunity of returning, &c., be tried "for any offense committed prior to his surrender, other than the extradition crime, proved by the facts on which the surrender is grounded."

It will be seen the word "crime" is carefully used, in the singular, and, as Lord Derby states in his note, this Government was informed in 1870 that any provision would be inadmissible by which a prisoner surrendered for one offense could be tried for any "other than the extradition crime for which he was surrendered."

But when the corresponding provision limiting Great Britain to trials is examined, (section 19,) it is provided that a criminal so surrendered "shall not be triable, or tried, for any offense committed prior to the surrender in any part of Her Majesty's dominions, other *than such of the said crimes as may be* proved by the facts on which the surrender is grounded."

The want of reciprocity of these provisions is quite clear, inviting frequent questions and difference.

To make one further remark as to this act, the latter part of section 7 provides that if the secretary of state is of opinion that an offense is one of a political character, he may refuse an order for a warrant of apprehension, and that he may "at any time order a fugitive criminal, accused or convicted of such offense, to be discharged from custody."

In the drafts of treaties prepared and submitted to this Government under this act, no such corresponding authority to discharge criminals in custody was proposed to be given to the United States, nor does the act seem to contemplate a reciprocal right to other powers.

I repeat, that this act does not concern the United States, except in so far as it is put forward to limit our treaty rights, and I have been drawn into any consideration of its system, or particular provisions, only from the language of Lord Derby, that it was the embodiment of the general opinion of all countries on the subject of extradition.

Moreover, if the United States had been willing to negotiate a new treaty, which should contain certain restrictions as to trials not included in the existing treaty, and give certain advantages not known thereto, such readiness could not justify Great Britain, after the negotiation had failed, in withholding all the advantages and in seeking to ingraft upon the old treaty such of the rejected provisions as she might select; particularly so when the act of Parliament of 1843 (6 and 7 Vict., ch. 57) was by its provisions to continue as long as the treaty; and the twenty-seventh section of the act of 1870 exempted the treaty with the United States from the clauses which were foreign to its terms; and when the United States, soon after the passage of the act of 1870, and on January 27, 1871, had informed Her Majesty's government that this Government understood the twenty-seventh section of the act of 1870 as giving continued effect to the existing engagements for the surrender of criminals, to which no dissent was at any time or in any form or manner expressed. In fact, the understanding of the United States on this question was not only not dissented from, but has been sustained by the supreme court of Canada in Worms's case in 1876, and in Rosenbaum's case in 1874, where the court states: "I cannot see how a new provision of the act of 1870 could be consistent with the treaties with France, the United States, and Denmark;" and by the conclusion, so far as a conclusion was reached, by the Court of Queen's Bench in the case of Bouvier, in 1872, to which I have heretofore referred, where the lord chief-justice says that, although he hesitates to express an opinion, he plainly sees that it was intended, while getting rid of the statutes by which the treaties were confirmed, to save the existing treaties in their full integrity and force, and that, had it been necessary to decide that point, he would have been prepared to do so.

Having examined that case with care as to what was there decided, I read with surprise Lord Derby's statement that the point decided was that, under the provisions of the French treaty, unless it had been proved to the court that the French law had provided that Bouvier could not be tried for any other offense than that for which he was surrendered, Bouvier could not have been delivered up; and I am quite satisfied that a perusal of the case itself will tend to a very different conclusion.

Lord Derby makes reference to certain correspondence between an official of the home office and the solicitors of Lawrence soon after his surrender, and before any representation had been made to this Government. This correspondence assumed in a few words to prejudge and dispose of the whole question, and to state what was the law of this country, and the general law of extradition of all countries, in reference to the trial of surrendered fugitives. It was unknown to and unauthorized by this Government, and founded on the representation and the argument of the criminal. It appeared in the public prints, and was used by the counsel and friends of Lawrence in the United States to prejudge the question and create difficulty between the two governments; and I deeply regret the necessity which requires me to question the reference to *ex-parte* representations made by the paid solicitors of a criminal to an official of a foreign power in the discussion of a grave question involving the rights and impugning the conduct of a friendly

state, and jeopardizing the maintenance of a treaty of long standing and of beneficial operation.

Lord Derby also quotes a letter of instruction addressed by the Attorney-General of the United States to the district attorney at New York in reference to the trial of Lawrence, whose case in the whole correspondence seems to have overshadowed that of Winslow, which alone is the subject of the present requisition made by the United States upon Her Majesty's government, and his lordship inquires as to the power of the Attorney-General over prosecutions instituted against extradited criminals.

The letter in question was addressed by the head of the Department of Justice to one of his subordinate officers in reference to the conduct of a case under his charge. The Attorney-General directs that "Lawrence must first be tried upon the charge upon which he was extradited, and upon no other, until that trial is ended." This letter of instruction, passing from a superior to a subordinate officer, was not, and was not intended to be, an exposition of the views of the Government upon any general proposition, but a specific instruction in a particular case; and whether or not he had ever examined the opinion of the late distinguished under-secretary of state for foreign affairs of Her Majesty's government, he seems to have been guided by the same appreciation of treaty rights and of international law which led Lord Hammond, in his examination before the special committee of the House of Commons, to say: "We admit in this country that if a man is *bona fide* tried for an offense for which he was given up, there is nothing to prevent his being subsequently tried for another offense, either antecedently committed or not."

In reply to the question of Lord Derby as to the power of the Attorney-General over prosecutions, it will be borne in mind that in the United States an offense may be against Federal laws, or against the laws of one of the States. The Attorney-General has power to control all criminal prosecution for offenses against the Government pending in the Federal courts, but no power whatever to interfere, directly or indirectly, in any State prosecution. The President has, in like manner, power to pardon criminals convicted, and to direct the suspension or dismissal of criminal prosecutions in the Federal courts, but none to pardon those tried and convicted in the State courts, or to control the proceedings of these courts.

Criminals of both classes come under the extradition treaty. It happens that Lawrence is charged with crimes against the Government, and Winslow and the other forgers with crimes against State laws.

Neither the President, nor any officer of the Federal Government, has power to control or to dismiss the prosecution in Winslow's case, or in any case where the offense is against the laws of one of the States, and could not give any stipulation or make any arrangement whatever as to the offenses for which he should be tried when returned to the justice of the State against whose laws he may have offended.

But, as I have before stated, a treaty, duly ratified and proclaimed, is in the United States the supreme law of the land, and if the extradition treaty did, as it does not, provide that no criminal could be tried for any other than certain particular offenses, such a provision would be binding upon all courts, both State and Federal.

The absence of any such provision from the treaty between the United States and Great Britain leaves to the State courts the extent of jurisdiction over returned criminals, which has been so repeatedly referred to as recognized by the judicial decisions of the courts of both countries.

His lordship refers to the "late case of Blair, who was" (as his lordship mildly expresses it) "inveigled by a British subject, with the assistance of American officers from the United States, and tried at Liverpool for fraudulent bankruptcy, and sentenced to imprisonment." He was promptly released by the British government, which sent him back to the United States, paying his expenses back to the place whence he had been brought. This prompt and generously just conduct of Her Majesty's government is duly recognized and appreciated by the United States.

The abduction was, however, regarded by this Government as a case of kidnapping; but the power so promptly and efficiently exercised by the British government is an evidence of the inherent power existing in the political department of that government, when it sees fit to exercise it, over the person of the individual, and in control even of the judgments of the courts. Could not the power thus summarily exercised in an act of comity, and in consideration of a wrong committed in a distant jurisdiction, be also exercised in the performance of a treaty obligation, and in aid of the administration of justice, without being hampered by the technicalities of a municipal act? Whether Blair personally desired to be returned to the United States is not known, nor is it supposed to be of any consequence. He was deported and sent out of Her Majesty's jurisdiction by the political authorities of the government without process of law, but merely upon the representation of the United States of the circumstances attending his abduction or inveiglement.

His lordship speaks of having been "assured of the intention of the United States Government to try Lawrence for other than the extradition crime for which he was surrendered." Her Majesty's government has never been thus assured, and for the very good reason that the Government of the United States has never reached any such conclusion, and has neither expressed nor formed any such intention. It does, however, hold to the opinion that, if thus inclined, it has the power and the right, after having tried him on the charge on which he was surrendered, (although he may have been surrendered on only one of twelve or more charges of which the proofs were furnished,) with a *bona-fide* intent and effort to convict him on that one charge, to try him for others of the many offenses of which he has been guilty. It does not conceal, but avows, its belief in this right. And hereupon Lord Derby advances the startling declaration, which I repeat in his own words: "They" (Her Majesty's government) "have always regarded the claim so to try him as a breach of the treaty of 1842."

If Her Majesty's government seriously advances this as indicating a mode whereby, in their judgment, a treaty may be broken, it is as novel as it may prove to be far-reaching. It is simply the proposition that the assertion by one party to a treaty of a claim, or of a construction of the instrument not admitted by the other, and without any act in derogation of the convention or of the rights of the other party, constitutes of itself a breach of the treaty.

I note this assertion, not with a view to discussion, but in the hope that so dangerous a doctrine may prove to have been unguardedly advanced, and may not be left unexplained or unavowed to justify future action (from whatever quarter) upon its broad statement, under which treaties and conventions become worthless.

While it may not be necessary to repeat the position of the United States, it is proper to say that the United States has simply demanded the performance by Great Britain of her treaty obligation to deliver

fugitives under the treaty of 1842, as the same has been in operation for more than thirty years, and insists that no British statute can attach a condition to the treaty foreign to its terms.

If any proceedings in the United States, in the case of any criminal, have given rise to question or complaint, this Government is prepared to hear and properly dispose of any such complaint.

But while the treaty shall be in force, the Government of the United States would be strangely forgetful of the dignity and rights of the country if a foreign state were permitted to exact stipulations or engagements pursuant to her law, but foreign to the treaty, as a condition of obtaining the performance of treaty obligations.

It will be a cause of great regret that a treaty which has worked so long and so beneficially should be terminated on such a ground; but the decision of this question is for the authorities of Great Britain. The United States has in due form, and after complying with every requirement of the treaty, demanded the surrender of Winslow and the other criminals in London, and it is for Her Majesty's government to decide whether Great Britain will or will not perform her treaty obligations.

You will read this instruction to Lord Derby, and in case he desires it, you will furnish him with a copy.

I am, &c.,

HAMILTON FISH.

No. 131.

Mr. Fish to Mr. Hoffman.

No. 890.] DEPARTMENT OF STATE,
Washington, May 24, 1876.

SIR: Since instruction No. 887, dated the 22d instant, was prepared, I have received your No. 82, under date of the 11th instant, inclosing copies of two notes addressed to you by Lord Derby on the subject of the extradition of Winslow, bearing date, respectively, the 5th and 6th instant.

In the former of these notes Lord Derby informs you that a copy of instruction of March 31, which had been transmitted to him by you on April 29, had been communicated to Her Majesty's secretary of state for the home department, who had requested him to call your attention to the part which alludes to Lawrence's case, and which states that, although not arraigned on any other indictment than for the forgery for which he was extradited, the British home office has raised the question that he may be possibly tried for other charges and for other crimes, and states that the home secretary wishes to observe that no question was raised by him until he was satisfied that Lawrence had been indicted, although not yet arraigned, for smuggling.

An indictment was found against Lawrence for smuggling, February 3, 1875, a month before any steps had been taken toward his extradition or any demand made therefor.

The indictment had been found some time before he departed for Great Britain; his extradition was not asked therefor, nor was the charge proved against him in the proceedings in London, and he has not been arraigned upon it in this country.

The United States has stated what is claimed to be the practice and the right of this Government under the extradition treaty, but has not

stated its intentions as to the trial of Lawrence, nor has Her Majesty's government, so far as I am aware, any evidence to justify any conclusion on that point.

Lord Derby, in his subsequent note of the 6th of May, informs you, in reply to your note transmitting references to certain late decisions in the supreme court of Canada, not in harmony with the position assumed in the case of Winslow, that the home secretary has informed him that he differs from the Canadian judges, and calls attention to the case of the Lennie mutineers, heard on May 5, in London.

This case, as I apprehend, would be governed by the French treaty made under the law of 1870, and by that act, and, if so, would be in no way applicable to the present discussion.

You will furnish Lord Derby with a copy of this instruction.

I am, &c.,

HAMILTON FISH.

No. 132.

Mr. Hoffman to Mr. Fish.

No. 95.] LEGATION OF THE UNITED STATES,
London, May 25, 1876.

SIR: I have the honor to forward to you herewith a copy of the only note of importance I have lately received from Lord Derby in the Winslow matter. I add a copy of my reply.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 95.]

Lord Derby to Mr. Hoffman.

Immediate.] FOREIGN OFFICE, *May* 19, 1876.

SIR: With reference to my note of the 13th instant, I have the honor to remind you that the hearing of the application for the release of Winslow from custody was postponed for ten days from the 13th instant, and that, as matters stand at present, he will be released on Tuesday, the 23d instant.

Her Majesty's government would be happy to consider any communication which Mr. Fish might instruct you to make on the subject, after having received my letter to you of the 4th instant; and if no such instructions should have reached you, I would suggest that you should call the attention of your Government, by telegraph, to the date at which Winslow will be released, and should inquire if they have any further communication on the subject to make to Her Majesty's government.

I have the honor, &c.,

DERBY.

[Inclosure 2 in No. 95.]

Mr. Hoffman to Lord Derby.

LEGATION OF THE UNITED STATES,
London, May 20, 1876.

MY LORD: I have the honor to acknowledge the receipt of your note of yesterday in reference to the case of Winslow, and to inform you that I have to-day telegraphed to Mr. Fish, in accordance with your suggestion.

I have the honor, &c.,

WICKHAM HOFFMAN.

No. 133.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *May* 26, 1876. (Received May 26.)

Lord Derby refers to your eight-sixty-four as regards treaties with certain foreign powers; also to article three of draft treaty lately discussed, to which article he says you gave your assent, and requests me to ask by telegraph if my Government, to meet present difficulty, will add this article to treaty of forty-two. In this case Sir Edward Thornton will be instructed to sign it at once.

HOFFMAN.

No. 134.

Mr. Fish to Mr. Hoffman.

[Telegram.]

WASHINGTON, *May* 27, 1876.

Your telegram received. Sir Edward Thornton has read to me one from Lord Derby, stating that you had proposed to him the negotiation of the additional article.

You will please inform me immediately whether the suggestion proceeded in the first instance from you or from him, and if from him, how far you may have encouraged it.

FISH, *Secretary.*

No. 135.

Memorandum of a conversation between Sir Edward Thornton and Mr. Fish, at the Department of State, Saturday, May 27, 1876.

Sir Edward Thornton read a telegram from Lord Derby, stating in substance that Mr. Hoffman, the United States *chargé* in London, had suggested to him that an additional article to the treaty of 1842 might be negotiated, and he (Lord Derby) thereupon proposed an article similar to the 3d article of the *projet* of a treaty which was under consideration between Sir Edward Thornton and Mr. Fish in June, 1873, which proposed to restrict the trial of a surrendered fugitive to that for the specific crime for which he may have been surrendered, and to which article he said Mr. Fish had proposed an amendment prescribing the time within which the fugitive might be at large after trial or discharge, before he could be arrested for trial on another offense, and during which he should be at liberty to return to the country by which he had been surrendered. That if this proposal be accepted by the United States, he (Lord Derby) would sign the new article in London with Mr. Hoffman, or Sir Edward Thornton would be authorized to sign it here with Mr. Fish.

Mr. Fish, in reply, expressed regret and surprise that Mr. Hoffman should have made any suggestion on the subject, and assured Sir Edward Thornton that Mr. Hoffman had no authority from his Government to make or to entertain any such proposition or suggestion, but that he was strictly limited to the conveyance of specific instructions from his Government so far as relates to any question affecting the con-

struction of the extradition treaty between the two governments, and Mr. Fish requested Sir Edward Thornton to assure Lord Derby to this effect. Mr. Fish added that he endeavored to give Mr. Hoffman instructions on that particular question which should be read to Lord Derby, and not to leave anything for oral representation or oral discussion, in order to avoid the possibility of any misapprehension from telegrams or other cause.

With regard to the proposition for negotiating an additional article to the treaty of 1842, he remarked that although he might have been willing in the negotiation of 1873 to have inserted the article now proposed, in a treaty which gave to the United States the improvements which it desired in the treaty of 1842, of a larger list of extradition crimes and other advantages, it could not be expected that the United States would now accept the limitations and restrictions upon what it holds to be its rights under the treaty without obtaining any of the advantages for which such limitations might have been accepted.

That the United States is extremely anxious to reach a satisfactory settlement of the difficulties which have been interposed in the execution of the treaty, but that the proposed article would impose upon the United States the limitation which it denies to exist under the treaty, and would secure no one advantage which it desired, and no improvement upon the treaty of 1842.

And, further, that in view of the argument which has been advanced by the British government, of the controlling force of the act of Parliament over all treaties or arrangements for extradition made by Her Majesty's government subsequent to its enactment, it might be claimed, and possibly not without some force, that an article in amendment or additional to the treaty of 1842, would bring that treaty under the operation and control of the act, which this Government denies to be the case, and cannot consent to. It would be admitting away one of the grounds on which the United States stands.

He referred to what he considered defective features in the British act of 1870, which he thought made it unequal in its provisions as to the British and to the foreign governments, and as wanting in reciprocal powers and rights.

He further said that he thought it unwise to attempt to patch up the treaty of 1842; that the present would not be a propitious moment for such efforts; and that whenever anything is attempted in the way of altering that treaty, it would require a more general revision, and especially an enlargement of the list of extradition crimes.

Mr. Fish added that the United States would not object in any negotiation to be hereafter entered upon, that a treaty should provide to the effect that a surrendered criminal shall not be tried for any crime or crimes other than such as are of the class enumerated in the treaty as extradition crimes, nor be tried for any political offense.

In this connection he referred to the treaty negotiated in 1852 between Great Britain and France, (signed by Lord Malmesbury and Count Walewski,) which contained a provision to that general effect.

And upon Sir Edward Thornton observing that the act of 1870 would prevent the British government from agreeing to such a stipulation, Mr. Fish asked whether Her Majesty's government could not obtain from Parliament a special enabling or ratifying act for the particular treaty which might be negotiated between the two countries.

Mr. Fish further said that with such provision in a treaty, and with the similarity of feeling of the two governments and of their people on the question of political asylum, a full protection would be secured

against the trial of a surrendered fugitive for any political offense; and that the violation of such provision by either of these two governments was not within the reach of contemplation, but, should it occur, it would lead to the denunciation of the treaty by the surrendering state, which would also be at liberty to hold the offending state to its responsibilities for violating a treaty engagement; the treaty would be broken by an act in violation of its terms; whereas if the state on which the demand for surrender is made decide that such demand, being made (as it must be) for one of the extradition offenses, is really designed to bring the fugitive to trial for a political offense, and refuses surrender on that ground, it would be an imputation upon the good faith of the request, and upon the integrity of the demanding state, which would justly give rise to resentful feelings, and would equally lead to a denunciation of the treaty by the state whose requisition has been refused, and whose honor and integrity has been questioned, and in this case the treaty would fail, not for an act done, but for the questioning of the good faith of one of the parties.

HAMILTON FISH.
EDWARD THORNTON.

No. 136.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *May* 28, 1876.

In conversation with Tenterden about future negotiations for a new treaty and difficulties in the way, I suggested that if we could not agree upon all the terms of a new treaty, we might amend old treaty by adding to it the articles upon which we were agreed. Suggestion as regards Winslow proceeds entirely from British government.

Reported substance of conversation by mail Saturday.

HOFFMAN.

No. 137.

Mr. Fish to Mr. Hoffman.

[Telegram.]

WASHINGTON, *May* 28, 1876.

Your suggestion was unauthorized and is regretted and disapproved. You are to receive any representations or information on the subject of the treaty, or of pending difficulties, and report them here, but to abstain from discussion or suggestion unless under specific instruction. All negotiation on the extradition question will be conducted here.

Should Winslow be given up, you will perform the appropriate duties, but say nothing to compromit this Government, or to further embarrass the general question.

FISH, *Secretary.*

No. 138.

Mr. Hoffman to Mr. Fish.

No. 99.] LEGATION OF THE UNITED STATES,
London, May 27, 1876.

SIR: Referring to my telegram of last evening in the matter of Winslow, I have the honor to forward to you herewith a copy of the note of Lord Derby upon which it was based, and which I received late yesterday afternoon.

With regard to the "suggestion made by me in conversation," it is proper to state that, calling on Lord Tenderden, to ascertain what had taken place in connection with the last remand of Winslow, the conversation turned upon a new treaty and the difficulties in the way of negotiating it, when I observed "that if we should be unable to make a new treaty why should we not amend the old one upon the points upon which we are agreed. We have got along very well under it for thirty years, and with two or three amendments there is no reason why we should not get along under it for many years more."

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 99.]

Lord Derby to Colonel Hoffman.

FOREIGN OFFICE, *May 26, 1876.*

SIR: With reference to the paragraph in Mr. Fish's dispatch of the 31st of March, in which he states that "in some few treaties between the United States and foreign countries provisions exist that the criminal shall not be tried for offenses committed prior to extradition other than the extradition crime," and to the draft article to the same effect contained in the draft treaty lately discussed between the two governments, to which article Mr. Fish had given his assent, I have the honor to request that you will state to your Government, by telegraph, that Her Majesty's government will be ready at once to meet the suggestion made by you in conversation at the foreign office yesterday, and to sign an additional article to the treaty of 1842, in the words of that draft article, of which a copy is inclosed.

I have to add that this article is identical with the one contained in all the extradition treaties between Great Britain and other countries, mentioned in the accompanying list.

On being informed that the Government of the United States consent to adopt this method of meeting the present difficulty, Her Majesty's government will be ready to authorize Her Majesty's minister at Washington, who has full powers, to sign the additional article with Mr. Fish, or I shall be happy to do so with you, if your Government prefer it.

Her Majesty's government trust that the Government of the United States will see in this proposal a proof of their sincere desire to maintain a treaty of such importance to both countries.

I have the honor, &c.,

DERBY.

[Inclosure.]

Every extradition treaty concluded by Great Britain with foreign powers since the passing of the act of 1870 contains an article in accordance with section 3, subsection 2, of the act.

The following are the treaties in question:

Austria, 3d December, 1873; Belgium, 31st July, 1872; Brazil, 13th November, 1872; Denmark, 31st March, 1873; Italy, 5th February, 1873; Germany, 14th May, 1872; Netherlands, 19th June, 1874; Sweden and Norway, 26th June, 1873; Switzerland, 31st March, 1874; Hayti, 7th December, 1874; Honduras, 6th January, 1874.

Draft article in proposed extradition treaty with the United States, agreed to by Mr. Fish

ARTICLE III.

When any person shall have been surrendered by either of the high contracting parties to the other, such person shall not, until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offense committed in the other country prior to the surrender other than the particular offense on account of which he was surrendered.

No person shall be deemed to have had an opportunity of returning to the country whence he was surrendered until two months, at least, shall have elapsed after he shall have been set at liberty and free to return.

N. B.—The last paragraph of this article was added by Mr. Fish.

No. 139.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *June* 1, 1876.

FISH, *Washington:*

Notified by Lord Derby Winslow case finally adjourned until fifteenth instant.

HOFFMAN.

No. 140.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *June* 6, 1876. (Received June 6.)

Read 887. Left copy with Lord Derby to-day. Sent him copy of 890. Brent applies for *habeas corpus*. British government will ask remand until fifteenth.

HOFFMAN.

No. 141.

Mr. Hoffman to Mr. Fish.

[Telegram.]

LONDON, *June* 9, 1876.

Extradition correspondence, Lawrence, Winslow, Brent, Gray, published.

Latest dispatch, Derby to Thornton, May 29.

Yours, May 22, not published.

HOFFMAN.

No. 142.

Mr. Hoffman to Mr. Fish.

No. 103.] LEGATION OF THE UNITED STATES,
London, June 7, 1876. (Received June 19.)

SIR: Referring to your dispatch No. 887 and to your telegram of the 2d instant, I have the honor to inform you that this dispatch was re-

ceived on Saturday, and the duplicate on Monday. In the course of Monday I had a copy prepared, and, having made an appointment with him for that purpose, read the amended dispatch to Lord Derby, and left a copy with him on Tuesday the 6th instant.

Lord Derby requested me to read only the principal parts of your dispatch, as he should read it over. I read about one-half of it, giving him the heads of the arguments and reading in detail all new matter, especially your quotations from Lord Stanley and Lord Cairns in the debate of 1866, on the proposed amendment to the bill to carry into effect the treaty with France. * * * *

I have, &c., &c.,

WICKHAM HOFFMAN.

No. 143.

Mr. Hoffman to Mr. Fish.

No. 104.] LEGATION OF THE UNITED STATES,
London, June 9, 1876. (Received June 22.)

SIR: I have the honor to forward to you herewith copies of the only notes of any importance which have passed between Lord Derby and myself upon the Winslow matter since my last dispatch upon this subject.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 104.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *May* 31, 1876.

SIR: With reference to my note of the 24th instant, I have the honor to inform you that the hearing of the application for the release of Winslow has been finally adjourned until the 15th proximo.

I have, &c.,

DERBY.

[Inclosure 2 in No. 104.]

Mr. Hoffman to Lord Derby.

LEGATION OF THE UNITED STATES,
London, June 9, 1876.

MY LORD: I have the honor to acknowledge the receipt of a copy of "correspondence respecting extradition," which your lordship has had the goodness to send me.

Referring to Lord Tenterden's note to Mr. Tiddell, (No. 229,) I beg to correct a misapprehension as to the suggestion therein referred to as made by me.

Speaking of the chances of making a new treaty and the difficulties in the way, I ventured to suggest that, if we should find it impossible to agree upon all the articles of a new treaty, we might amend the old one by adding to it such articles as we were agreed upon. I had no intention to suggest a particular amendment as the means of meeting the present difficulty.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 3 in No. 104.]

Mr. Lister to Mr. Hoffman.

FOREIGN OFFICE, *June* 3, 1876.

SIR: With reference to my letter of the 29th March, I have the honor to acquaint you that a letter has been received from Her Majesty's secretary of state for the home department, stating that the solicitors of Charles Innes Brent, who stands committed to Middlesex house of detention for the crimes of forgery and uttering forged paper, with a view to his surrender to the United States as an extradition-prisoner, have given notice to Mr. Cross that they intend to apply on the 9th instant to a judge in chambers for Brent's release out of custody, under the provisions of the twelfth section of the 33d and 34th Vic., Cap. 52, or for a writ of *habeas corpus*.

Her Majesty's attorney-general will be instructed to appear and move that the application be postponed to the same day to which Winslow's case is adjourned.

I have, &c.,

T. V. LISTER,
In the absence of the Earl of Derby.

No. 144.

[Telegram.]

LONDON, *June* 15, 1876.

FISH, *Washington:*

Informed by detectives Winslow discharged to-day. Brent comes before full bench Monday.

HOFFMAN.

No. 145.

Mr. Hoffman to Mr. Fish.

No. 110.] LEGATION OF THE UNITED STATES,
London, June 17, 1876. (Received June 29.)

SIR: On the 15th instant I had the honor to telegraph you that Winslow had been discharged.

My information was derived from Mr. Dearborn, the detective-officer, who was present at chambers. I have received no official information as yet upon the subject.

The case was heard before Judge Mellor. Application for the discharge was made by Mr. Clarke, the author of the well-known work on extradition. In reply the attorney-general produced a letter from the home office to the effect that negotiations were still pending, and they would be pleased to have another remand. This application the attorney-general supported very lukewarmly. Mr. Clarke stated in reply that his client had already been remanded four or five times, and insisted upon a discharge. The judge granted it. I am indebted to Mr. Dearborn for these particulars. No one is allowed to be present on these applications in chambers except the parties immediately concerned, and it was with some difficulty that Mr. Dearborn obtained admission. None of the other reporters or detectives was admitted. Winslow is still in London, and, so far as I am aware, has no intention of leaving it.

As regards Brent, his application for discharge was made to Mr. Justice Lindley. That officer was unwilling to hear it, and it was accordingly postponed until the 15th instant, the day to which Winslow was remanded, to be then heard by the court sitting *in banco*. On the

15th a full court could not be had, and the case was adjourned to Monday, the 19th instant.

I have endeavored to keep you promptly informed of these movements by telegraph, and shall continue to do so.

With my No. 111 I send copies of telegrams sent and received.

I have, &c.,

WICKHAM HOFFMAN.

No. 146.

[Telegram.]

LONDON, *June* 17, 1876.

FISH, *Washington:*

Winslow discharged by Judge Mellor in chambers. Judge Lindley refused to act on Brent's application; referred it to court *in banco* on Monday.

HOFFMAN.

No. 147.

[Telegram.]

LONDON, *June* 19, 1876.

FISH, *Washington:*

Notified by Lord Derby that on Winslow's discharge attorney-general stated present condition of negotiations. To-day Brent discharged, attorney-general confining himself, am informed by detectives, to same statement.

HOFFMAN.

No. 148.

Message from the President in relation to the extradition treaty with Great Britain.

To the Senate and House of Representatives:

By the tenth article of the treaty between the United States and Great Britain, signed in Washington on the 9th day of August, 1842, it was agreed that the two governments should, upon mutual requisitions respectively made, deliver up to justice all persons who, being charged with certain crimes therein enumerated, committed within the jurisdiction of either, should seek an asylum or be found within the territories of the other.

The only condition or limitation contained in the treaty to the reciprocal obligation thus to deliver up the fugitive was that it should be done only upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged should be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed.

In the month of February last a requisition was duly made, in pursuance of the provisions of the treaty, by this Government upon that of Great Britain for the surrender of one Ezra D. Winslow, charged with extensive forgeries and the utterance of forged paper, committed within the jurisdiction of the United States, who had sought an asylum and

was found within the territories of Her Britannic Majesty, and was apprehended in London. The evidence of the criminality of the fugitive was duly furnished and heard, and being found sufficient to justify his apprehension and commitment for trial, if the crimes had been committed in Great Britain, he was held and committed for extradition.

Her Majesty's government, however, did not deliver up the fugitive in accordance with the terms of the treaty, notwithstanding every requirement thereof had been met on the part of the United States, but, instead of surrendering the fugitive, demanded certain assurances or stipulations not mentioned in the treaty, but foreign to its provisions, as a condition of the performance by Great Britain of her obligations under the treaty.

In a recent communication to the House of Representatives, and in answer to a call from that body for information on this case, I submitted the correspondence which has passed between the two governments with reference thereto. It will be found in Executive Document No. 173 of the House of Representatives of the present session, and I respectfully refer thereto for more detailed information bearing on the question.

It appears from the correspondence that the British government bases its refusal to surrender the fugitive and its demand for stipulations or assurances from this Government on the requirements of a purely domestic enactment of the British Parliament passed in the year 1870.

This act was brought to the notice of this Government shortly after its enactment, and Her Majesty's government was advised that the United States understood it as giving continued effect to the existing engagements under the treaty of 1842 for the extradition of criminals; and, with this knowledge on its part and without dissent from the declared views of the United States as to the unchanged nature of the reciprocal rights and obligations of the two powers under the treaty. Great Britain has continued to make requisitions and to grant surrenders in numerous instances without suggestion that it was contemplated to depart from the practice under the treaty which has obtained for more than thirty years, until now, for the first time, in this case of Winslow, it is assumed that under this act of Parliament Her Majesty may require a stipulation or agreement not provided for in the treaty as a condition to the observance by her government of its treaty-obligations toward this country.

This I have felt it my duty emphatically to repel.

In addition to the case of Winslow, requisition was also made by this Government on that of Great Britain for the surrender of Charles J. Brent, also charged with forgery committed in the United States and found in Great Britain. The evidence of criminality was duly heard and the fugitive committed for extradition.

A similar stipulation to that demanded in Winslow's case was also asked in Brent's, and was likewise refused.

It is with extreme regret that I am now called upon to announce to you that Her Majesty's Government has finally released both of these fugitives, Winslow and Brent, and set them at liberty, thus omitting to comply with the provisions and requirements of the treaty under which the extradition of fugitive criminals is made between the two governments.

The position thus taken by the British government, if adhered to, cannot but be regarded as the abrogation and annulment of the article of the treaty on extradition.

Under these circumstances it will not, in my judgment, comport with the dignity or self-respect of this Government to make demands upon

that government for the surrender of fugitive criminals, nor to entertain any requisition of that character from that government under the treaty.

It will be a cause of deep regret if a treaty which has been thus beneficial in its practical operation, which has worked so well and so efficiently, and which, notwithstanding the exciting and at times violent political disturbances of which both countries have been the scene during its existence, has given rise to no complaints on the part of either government against either its spirit or its provisions, should be abruptly terminated.

It has tended to the protection of society and to the general interests of both countries. Its violation or annulment would be a retrograde step in international intercourse.

I have been anxious and have made the effort to enlarge its scope, and to make a new treaty which would be a still more efficient agent for the punishment and prevention of crime. At the same time I have felt it my duty to decline to entertain a proposition made by Great Britain, pending its refusal to execute the existing treaty, to amend it by practically conceding by treaty the identical conditions which that government demands under its act of Parliament. In addition to the impossibility of the United States entering upon negotiations under the menace of an intended violation or a refusal to execute the terms of an existing treaty, I deemed it unadvisable to treat of only the one amendment proposed by Great Britain while the United States desires an enlargement of the list of crimes for which extradition may be asked, and other improvements which experience has shown might be embodied in a new treaty.

It is for the wisdom of Congress to determine whether the article of the treaty relating to extradition is to be any longer regarded as obligatory on the Government of the United States or as forming part of the supreme law of the land. Should the attitude of the British government remain unchanged, I shall not, without an expression of the wish of Congress that I should do so, take any action either in making or granting requisitions for the surrender of fugitive criminals under the treaty of 1842.

Respectfully submitted.

U. S. GRANT.

WASHINGTON, *June* 20, 1876.

No. 149.

Mr. Hoffman to Mr. Fish.

No. 112.] LEGATION OF THE UNITED STATES,
London, June 22, 1876. (Received July 3.)

SIR: I have the honor to forward to you herewith copies of the only notes of importance received from the foreign office in the Winslow matter during the last week.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 112.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *June* 15, 1876.

SIR: With reference to my letter of the 31st ultimo, I have the honor to inform you that a letter has been received from the home department, transmitting a copy of a

report from the solicitor of the treasury, stating that application was made at Judges Chambers to-day for the discharge of Winslow, when Her Majesty's attorney-general attended, and stated the present condition of the negotiations between this country and the United States; when, after hearing counsel for the prisoner, the application was acceded to by the learned judge.

I have, &c.,

DERBY.

[Inclosure 2 in No. 112.]

Lord Derby to Mr. Hoffman.

FOREIGN OFFICE, *June* 16, 1876.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, calling attention to the letter from this department to the home office, of the 25th ultimo, published in the papers recently presented to Parliament, respecting extradition, and explaining the intention of the suggestion which you were good enough to make with a view to the settlement of the questions which have arisen as to the interpretation of the tenth article of the treaty of 1842.

I have, &c.,

DERBY.

No. 150.

Mr. Fish to Mr. Hoffman.

No. 904.] DEPARTMENT OF STATE,
Washington, June 23, 1876.

SIR: Upon an examination of the British correspondence on extradition, North America, No. 1, 1876, forwarded with your No. 107, I was surprised to find, at page 77, (No. 163,) a note from yourself to Lord Derby, dated April 26, informing him of the receipt of a telegram by you from me, containing the words "has right," which you stated you understood to be an answer to his inquiry whether the district court had power to try Lawrence for offenses other than those mentioned in the warrant of surrender.

A copy of this note has not been transmitted to the Department, as should have been done. With your No. 76, you stated that you forward copies of all important correspondence. Copies of all correspondence upon the question under discussion should have been transmitted. (See printed personal instructions to diplomatic agents abroad, section viii.) This note of April 26 was founded upon an entire misapprehension. Upon April 25 I telegraphed you as follows: "Sixty-two received. Has eight sixty-four been communicated? Is question disposed of?" To which, on April 27th, you sent a reply containing the following: "Was communicated Saturday; no answer yet."

Upon a careful examination of the text of the dispatch received, as forwarded with your No. 72, the two words are made to read "Has right." and are followed by a period; at the same time the writing is indistinct, and as you replied to the dispatch by its true reading, I am in doubt how any mistake existed.

As you will therefore see, if any doubt still exists concerning it, the words "has right" were not used by me, and unless you have done so, you will correct the misapprehension existing by informing Lord Derby of your error in reading the telegram.

I am, &c.,

HAMILTON FISH.

No. 151.

Mr. Hoffman to Mr. Fish.

No. 121.] LEGATION OF THE UNITED STATES,
London, July 3, 1876. (Received July 17.)

SIR: I have the honor to forward to you herewith a copy of a note from Lord Derby bearing date June 30th, in continuation of the argument upon the Winslow question.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure.]

Lord Derby to Colonel Hoffman.

FOREIGN OFFICE, *June* 30, 1876.

SIR: Her Majesty's government have had under their consideration the dispatch of Mr. Fish of the 22d of May, which you did me the honor of communicating to me on the 6th instant, in regard to the Winslow extradition case, and I have now the honor of stating to you the observations which Her Majesty's government are desirous of offering in reply.

In the first place I must repeat that Her Majesty's government have always maintained that it is an essential principle of extradition, as permitted or practiced by this country, that a person surrendered on an extradition treaty can be tried for the offense for which he is surrendered, and for no other offense previously committed.

They have maintained and must continue to maintain that this is the proper construction of the treaty of 1842; that it is the meaning which, at the time, was attached and which has since continued to be attached by this country to that treaty, and that it is the meaning which they had understood was attached to that treaty by the Government of the United States.

Upon this, which Her Majesty's government cannot but regard as the cardinal question in the case, little or nothing is said in Mr. Fish's dispatch. He dwells at length upon the act of 1870 and upon the arguments by which he maintains that the treaty of 1842 ought not to be affected by that act. Her Majesty's government look upon the applicability of that act as an important but still as an entirely subordinate question in the case. If that act did not exist, Her Majesty's government would feel themselves equally bound to maintain the position which they have taken upon the construction of the treaty of 1842.

It is desirable to advert again to the provisions of that treaty. It provides that Her Majesty would deliver up to justice persons seeking an asylum or found within her territories, charged with crimes committed within the jurisdiction of the United States. But this is not to be done unless such evidence of criminality is given as, according to the law of this country, would justify the apprehension and committal of the person, if the crime had been committed in this country.

The meaning of this stipulation obviously is that the country which is called upon to surrender a person who is under its protection may know both the crime of which that person is accused, and also that the evidence discloses facts which would amount to that crime according to the law of the surrendering country.

Her Majesty's government know what facts would constitute according to British law the crimes of murder or arson or forgery, or the utterance of forged paper. But they do not know what facts would constitute those crimes according to the law of other countries. They maintain the right of asylum until criminality, according to the law of this country, is shown.

If a person within the jurisdiction of Her Majesty were accused of arson and the evidence did not establish a case of arson according to British law, Her Majesty's government would refuse the extradition. But if the same person were demanded upon an allegation of forgery, and a *prima-facie* case of forgery according to the British law having been established he were surrendered, and were afterwards to be tried, convicted, and punished for that which might be arson by foreign law, but is not by the law of this country, he would be convicted and punished for the very offense for which his surrender had been in the first instance refused.

These considerations apply more forcibly in the case of political offenses.

Her Majesty's government do not suggest that the Government of the United States

would desire or seek the surrender of political refugees; but the construction of treaties of this kind must be general, and the same words cannot have different meanings when applied to different countries.

One main object of requiring evidence to be adduced not merely establishing an offense called by the name of the offense specified in the treaty, but establishing the offense of that name according to the law of the surrendering country, is to prevent the surrender of a person being made upon a charge of a crime of equivocal and uncertain meaning, and a trial being subsequently had upon facts which would be considered here as establishing a political offense, and not the crime for which the surrender was made.

Mr. Fish, indeed, contends that the risk as to extradition for offenses really political may be disregarded, but Her Majesty's government cannot regard as satisfactory the only security against this risk which he offers.

The circumstances alleged to constitute any one of the offenses specified in the treaty may be such as to show the close connection of political considerations with the offense charged, and the surrendering country, which must be the judge of whether the offense is or is not political, must have an opportunity of exercising this judgment by the facts of the case being presented to it.

There may be no political considerations connected with the offense for which a prisoner is surrendered, while there may be political considerations connected with the offense for which he is tried; but if a prisoner is surrendered on the one charge and tried on the other, the political ingredient is withdrawn from the judgment of the surrendering country.

Mr. Fish's answer to this difficulty is that no administration would dare to violate the rights of political asylum by obtaining a prisoner on one charge and trying him for a political offense.

Now, if the Government of the United States were the masters of the prosecution, Her Majesty's government might accept this assurance.

But Mr. Fish, at the same time that he offers this assurance, informs Her Majesty's government that, if the offense is one against the laws of one of the States, the Attorney-General of the United States has no power to interfere directly or indirectly, nor has the President any power to control the proceedings or ever to pardon those tried and convicted.

It must be apparent from these considerations that the objects so carefully provided for by the stipulations of the treaty would be wholly frustrated if a person, surrendered upon the allegation and proof of one offense, were afterwards to be tried for other offenses not alleged or proved as a ground of surrender. Her Majesty's government consider that this conclusion is the necessary result of the provisions of the treaty itself, but they are able to adduce the strongest possible contemporaneous evidence that this was the meaning placed upon the treaty by both parties to it.

Her Majesty's government, upon the conclusion of the treaty, immediately applied to Parliament for power to give effect to surrenders according to its provisions. By the third section of the act of 1843, (6 and 7 Vic., c. 76,) Her Majesty's secretary of state is authorized to order the delivery of the person committed on the charge of the specified offense to an officer who is, in the words of the statute, "to convey such person to the territories of the United States to be tried for the crime of which such person shall be so accused." The words of this statute sufficiently attest the meaning attached to the treaty by the Parliament of Great Britain. The act of Congress of August 12, 1848, (c. 47, sec. 3,) is the best exposition of the construction put upon the treaty by the United States. It is in these words: "It shall be lawful for the Secretary of State to order the person so committed to be delivered up to such person or persons as shall be authorized, in the name and on behalf of such foreign government, to be tried for the crime of which such person be so accused." Her Majesty's government have stated that they had reason to believe until the present controversy arose that the Government of the United States continued to place upon the treaty of 1842 the same construction which it was thus originally supposed to bear. They consider that they were justified in entertaining this belief by the course taken by Mr. Fish in 1871, 1872, and 1873, as detailed in my note of the 4th ultimo.

During these years the draft of a new and extended treaty of extradition was under negotiation between Her Majesty's government and the Government of the United States. That draft treaty as proposed by Her Majesty's government contained this article:

"ARTICLE VI. When any person shall have been surrendered by either of the high contracting parties to the other, such person shall not, until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offense committed in the other country prior to the surrender, other than the particular offense on account of which he was surrendered."

Alterations in the draft treaty were proposed by the Government of the United States, to some of which Her Majesty's government were willing to accede, although upon one article, that relating to political offenses, they were unable to agree to a

form of procedure satisfactory to the Government of the United States; but throughout the whole of the negotiation no objection whatever was made by Mr. Fish to the sixth article, which, on both sides, was assumed to be nothing more than the expression of the principle of extradition as it then stood. Indeed Mr. Fish not merely made no objection to the article, but he gave his distinct approval by appending to it a paragraph emphasizing its provisions in these words: "No person shall be deemed to have had an opportunity of returning to the country whence he was surrendered, until two months, at least, shall have elapsed after he shall have been set at liberty and free to return."

In opposition to these arguments drawn from the construction of the treaty, and from the exposition of it admitted by both the contracting parties, Her Majesty's government cannot admit the propriety of placing, as Mr. Fish is disposed to do, the dicta of text-writers or the opinion expressed by the late under secretary of state in his evidence given before the committee of the House of Commons.

As to the case of Heilbronn, Her Majesty's government much regret that a charge was made against this prisoner not justified by the extradition warrant under which he was received; but though the charge was preferred according to the ordinary forms of criminal procedure, in Her Majesty's name, it is the well-known course of law in this country that every private individual has the power of presenting an indictment, while, as a matter of fact, the presenting or finding of that indictment is entirely unknown to any person representing the executive government. Her Majesty's government must repeat that this departure from the extradition warrant in the case of Heilbronn was not the act of Her Majesty's government, nor was it called to their attention or known to them; and Her Majesty's government are not now aware of any other instance which has occurred in this country, during the long period that has elapsed since 1842, where a person surrendered under the treaty of 1842 has been put upon his trial for an offense other than that in respect of which his extradition was demanded.

As to the cases in Canada referred to by Mr. Fish, the attention of Mr. Justice Ramsey in Rosenbaum's case appears to have been occupied with the question as to the consistency of the act of 1870 with the treaty of 1842, and with the question whether the prisoner on his trial could set up as a defense the irregularity of his extradition, both of which questions are collateral to the main argument. With respect to the case of Worms, it is to be regretted that the appeal from the order for his extradition was not permitted to proceed in due course, by reason of an act of the legislature of the Dominion taking away the right of appeal in extradition-cases having passed after Worms's notice of appeal had been given. It is not easy to appreciate the inference which Mr. Fish seeks to draw from a reference to the debate in the British Parliament in 1866, since this debate exhibits in the most striking manner that the secretary of state and attorney-general affirmed distinctly the same principle of construction for which Her Majesty's government now contends.

Lord Stanley said, "as to the proposal that the French government should be required to enter into an undertaking that they would not try any person for any offense other than that for which he had been given up, he thought that that would be a very feeble protection indeed; for, assuming for the sake of argument, that the French could act in the manner suggested, and he really begged pardon for assuming it even for that purpose, he could only say that a Power which could act in such a manner would not be bound by an undertaking of the kind proposed." The present lord chancellor, then attorney-general, in the course of the same debate, added: "With respect to the latter part of the honorable member's amendments which required that the person should not be tried for any offense but that for which he had been given up, we should certainly have a well-founded complaint against any country that demanded a man to be given up for one offense and then proceeded to try and punish him for another. But, on the other hand, to put such words into an act of Parliament, which did not exist in the treaty, would only be offering a gratuitous insult to a foreign Power to whom it applied, without securing any real advantage." It would thus appear that both the speakers treated as an impossible hypothesis that any state should do that which the United States Government now claim to have the right to do. It is the obvious inference that the objection made in 1866 to the condition then proposed was not that it was inconsistent with the treaty-obligations already in existence, but that it was an unnecessary demand that those treaty-obligations should be expressed in distinct words. Mr. Fish states that Lord Derby contends that the British extradition-act of 1870 imposed no new condition upon the treaty of 1842, and Mr. Fish then proceeds to suggest a doubt whether that contention is really relied upon.

Her Majesty's government do undoubtedly and unreservedly maintain that the act of 1870 imposes no condition, new in substance, upon the treaty of 1842, inasmuch as the true meaning of that treaty is that a person accused of a specified crime or specified crimes shall be delivered up to be tried for the crime or crimes of which he is accused, and an agreement between two Powers that the right of asylum, equally valued by both, shall be withdrawn only in respect of certain specified offenses implies, as plainly as if it were expressed in distinct words, that in respect of the offense or offenses

laid to his charge, and such offense or offenses only, is the right of asylum so withdrawn; and that, as a consequence, independently of the act of 1870, it is the duty of each government to see that the treaty-obligations in that respect are recognized and observed by the receiving Power. Her Majesty's government think it unnecessary to repeat the view they have already expressed as to the extent to which the action of the executive of this country is, in their opinion, fettered by the act of 1870, and the more so because their previous references to that act appear to have led Mr. Fish to fail to appreciate the view of Her Majesty's government of the effect of the treaty of 1842, even if the treaty had stood alone. Mr. Fish states that the case of Winslow was alone the subject of requisition at the date of his dispatch, and that the case of Winslow seems to have been overshadowed by the case of Lawrence.

Her Majesty's government, however, desire to point out that it was with reference to the case of Lawrence that the question at issue between the two governments arose, and the case of Lawrence has throughout been assumed to govern the other cases.

Lawrence was surrendered to the Government of the United States upon a charge of forgery. He was indicted in the United States on a charge for smuggling, which is not one of the extradition-offenses. Mr. Fish, in his dispatch of the 24th of May, states that this indictment for smuggling was found against Lawrence before the demand for his extradition.

This may be so, but Lawrence was arrested and held to bail on this indictment for smuggling after his extradition, and it would appear that Mr. Fish himself stated to Sir Edward Thornton, on the 27th of November, that, though Lawrence had not been then arraigned for any other crime than that for which he was given up, he had given bail to appear for other crimes. These proceedings in the indictment for smuggling, taken after extradition, made the case in substance the same as if he had been indicted for smuggling after the extradition.

Had these proceedings been taken *per incuriam* or had they been disavowed by the Government of the United States, Her Majesty's government would have gladly accepted such an explanation. The Government of the United States, however, justifies these proceedings and maintains distinctly and unreservedly their right to try Lawrence, if they so think fit, upon this additional charge; and they maintain that this is the meaning and construction which they place upon the treaty of 1842. Under these circumstances, this issue having been distinctly raised by the Government of the United States and distinct notice having been given by them to Her Majesty's government of the construction which they place upon the treaty, Her Majesty's government have been forced, most reluctantly, to come to the conclusion that they could not surrender Winslow and the other prisoners lately in custody, without appearing to admit the claim of the Government of the United States and without exposing, in a manner which they are not justified in doing, the persons whose surrender is asked for, to be dealt with as Lawrence has been dealt with, and as he is claimed to be dealt with.

Her Majesty's government, sharing to the fullest degree the regret expressed by Mr. Fish that any difference of opinion as to the interpretation of the treaty of 1842 should lead to its termination, informed you on the 26th ultimo of their readiness to sign an additional article to the treaty, in the words of the draft article to which Mr. Fish gave his assent throughout the negotiations which were carried on in the years 1872, 1873, and 1874, with the addition which he himself then suggested. On learning that this offer was not acceptable to Mr. Fish, although he expressed his willingness to make a new and enlarged treaty, Sir Edward Thornton was authorized to propose the immediate signature of a treaty containing the articles agreed upon in the draft treaty of 1874, with the addition of a further clause intended to meet an objection formerly made by Mr. Fish, on a question of procedure in reference to political offenses. This draft treaty contained a full and complete list of crimes agreed upon with the Government of the United States, and Her Majesty's government hoped that this proposal might have been accepted by the Government of the United States before the time when the release of Winslow became necessary had arrived. It was, therefore, with sincere regret that they learned by a telegram from Sir Edward Thornton, dated the 8th instant, that Mr. Fish considered it impossible to negotiate a new treaty under the pressure of what he looked upon as a menace of violation of the treaty of 1842.

Her Majesty's government desire unreservedly to express their belief that the Government of the United States, in maintaining the argument which Mr. Fish expresses, are actuated by a sincere desire to maintain and discharge the rights and duties which, in their judgment, flow from the treaty-obligations of 1842; and Her Majesty's government claim for themselves to have the same construction placed upon the motives which have influenced them during these negotiations.

Her Majesty's government would recoil from any course which would have the appearance of a failure on their part to comply with what they consider to be the obligations laid by treaty upon them, and they deeply regret that it should have been supposed that, in negotiations with a country so closely connected with their own as is that of the United States, they could use any argument having the appearance of a menace, and above all a menace of the infraction of a treaty, as a means of obtaining a

treaty in a different form. Her Majesty's government are persuaded that to continue to act on the present treaty, so long as one construction is put upon its provisions by Her Majesty's government and a different construction by the Government of the United States, must lead to misunderstandings and reclamations of the most serious kind. They would on the other hand deeply deplore that the arrangements for extradition between this country and the United States, which have continued so long and operated so beneficially, should be for any length of time suspended; and Her Majesty's government have been and are prepared at any moment to join with the Government of the United States, if they are disposed to do so, in considering without bias or prejudice the terms of a new and if necessary an enlarged extradition-treaty between the two countries, which, while it will protect sufficiently the right of asylum, may prevent that right being so used as to afford impunity for crime.

I have the honor to be, with high consideration, sir, you most obedient, humble servant,

DERBY.

No. 152.

Mr. Hoffman to Mr. Fish.

No. 122.] LEGATION OF THE UNITED STATES,
London, July 5, 1876. (Received July 17.)

SIR: I have the honor to acknowledge the receipt of your dispatch of June 23, No. 904, and to inclose a copy of a note I have to-day addressed to Lord Derby in pursuance of your instructions.

I have, &c.,

WICKHAM HOFFMAN.

[Inclosure in No. 122.]

Mr. Hoffman to Lord Derby.

LEGATION OF THE UNITED STATES,
London, July 5, 1876.

MY LORD: Referring to my note of the 26th April, I am instructed by Mr. Fish to correct an error in my reading of the cipher-telegram from him, referred to in that note. Your lordship had requested me to ascertain from Mr. Fish whether the United States district court was possessed of certain powers. I wrote accordingly. Mr. Fish replied by telegraph, acknowledging the receipt of my dispatch, and adding "has eight." This word I deciphered "right." Substituting the word "eight" for right," I find that the dispatch could not have been intended to be communicated to your lordship as an answer to your inquiry.

I have, &c.,

WICKHAM HOFFMAN.

No. 153.

Mr. Pierrepont to Mr. Fish.

No. 7.] LEGATION OF THE UNITED STATES,
London, July 19, 1876. (Received August 1.)

SIR: * * * * * * *

I believe you are familiar with the case of Burley. On the 25th of February, 1865, Earl Russell, in his dispatch to Mr. Burnley, writes as follows:

FOREIGN OFFICE, *February* 25, 1865.

SIR: With reference to the case of Mr. Bennet Burley, who has been given over by the Canadian authorities to the United States Government, under the extradition-treaty,

on a charge of robbery, I transmit to you herewith a copy of a letter from Dalglish, M. P., forwarding, at the request of Mr. Burley's father, a statement relative to his son, from which it would seem that fears are entertained that Bennet Burley will not be tried before the United States courts on a charge of theft, but on a charge of piracy, and Mr. Burley, senior, as a British subject, consequently asks for the good offices of Her Majesty's government on behalf of his son, in so far as that he may not be tried on any other charge than that on which the claim was made for his extradition.

I have to state to you that, having considered this application in communication with the proper law advisers of the Crown, Her Majesty's government are of opinion that if the United States Government, having obtained the extradition of Burley on the charge of robbery, do not put him on his trial upon this charge, but upon another, viz, piracy, (which if it had been made before the Canadian authorities they might have held not sufficiently established to warrant his extradition,) this would be a breach of good faith against which Her Majesty's government might justly remonstrate. If, however, the United States Government does *bona fide* put Burley on his trial for the offense in respect of which he was given up, it seems to Her Majesty's government that it would be difficult to question the right of that government to put him upon his trial for piracy also, or any other offense which he may be accused of having committed within their territory, whether such offense was or was not a ground of extradition, or even within the treaty.

Accordingly Her Majesty's government can only so far comply with the application of Mr. Burley, senior, as to instruct you to protest against any attempt to change the ground of accusation upon which Burley was surrendered in pursuance of the treaty.

I am, &c.,

RUSSELL.

This shows clearly the view which the British government entertained of the treaty when Earl Russell wrote the dispatch, and it is not easy to see how Lord Derby can defend the new position which is now taken.

I herewith inclose a copy of the correspondence relating to extradition presented to the House of Commons, marked "No. 3" and "No. 4."

I have, &c.,

EDWARDS PIERREPONT.

[Inclosure.]

[Extracts from correspondence relating to case of Bennet G. Burley.]

Mr. Hammond to Mr. Burley.

No. 8.] FOREIGN OFFICE, *March* 25, 1865.

SIR: I am directed by Earl Russell to acknowledge the receipt of your letter of yesterday's date, and to state to you that a copy of it shall be transmitted to Her Majesty's minister at Washington by this evening's mail, with instructions to continue to use his best exertions, so far as the case admits of it, on your son's behalf.

I am, however, to add that if your son is bona fide tried for the robbery for which he was given up, the right of the United States Government to try him for piracy also could not be resisted.

I am, &.,

E. HAMMOND.

Earl Russell to Sir F. Bruce.

No. 12.] FOREIGN OFFICE, *May* 9, 1865.

SIR: Her Majesty's government have considered, in communication with the law advisers of the Crown, Mr. Burnley's dispatch of the 24th of March, inclosing copies of correspondence which had passed between him and Mr. Seward respecting the case of Bennet Burley, and I have now to inform you that Her Majesty's government adhere to the opinion which I expressed in my dispatch of the 25th of February, that it would have been a breach of good faith to have put Burley upon his trial for the charge of piracy, which was not the ground of his extradition under the treaty, unless he were, at all events, *bona fide* tried for robbery, for which offense he was given up.

The same observation is equally applicable to the charge of assault with intent to commit murder, with which Her Majesty's government do not understand Burley to have been charged before the Canadian authorities.

I have, however, at the same time, to acquaint you that Her Majesty's government also adhere to the opinion as to their limited power of interference in this case, as ex-

pressed in my above-mentioned dispatch, if Burley be really tried upon the charge for which he was given up, and also upon other charges. But it appears from Mr. Seward's letter to Mr. Burnley of the 20th of March that Burley will not be tried for piracy, as had been apprehended.

I am, &c.,

RUSSELL.

Mr. Hammond to Mr. Burley.

No. 23.] FOREIGN OFFICE, *June* 28, 1865.

SIR: With reference to my letter of the 22d instant, I am directed by Earl Russell to inform you that it appears from a dispatch which has been received from Sir F. Bruce that your son is to be tried in the court of the county of Ottawa, of Ohio, on the charge of robbery, and not for robbery on the high seas and piracy, as previously proposed.

Sir F. Bruce adds that he does not consider that it would be advisable for him to make any application to the United States Government on your son's behalf at present.

I am, &c.,

E. HAMMOND.

Mr. Elliot to Mr. Hammond.

No. 27.] DOWNING STREET, *September* 14, 1865. (Received Sept. 15.)

SIR: I am directed by Mr. Secretary Cardwell to transmit to you, for the consideration of Earl Russell, the inclosed copy of a letter from Mr. Robert Burley, soliciting the interference of Her Majesty's government on behalf of his son, Bennet G. Burley, who was concerned in the outrage on board the Philo Parsons, and handed over, under the extradition treaty, by the Canadian government to the United States.

Mr. Cardwell proposes, if his lordship concurs, to inform Mr. Burley that his son's case is one in which this department cannot interfere.

I am, &c.,

T. FRED'K ELLIOT.

[Inclosure in No. 27.]

Mr. Burley to Mr. Cardwell.

GLASGOW, *September* 8, 1865.

SIR: I take the liberty to draw your attention to the case of my son, Bennet G. Burley, who was extradited to the United States on 2d February last, by the Canadian government, and who still lies there imprisoned, no decision being yet come to on his case. He held the commission of an "acting master" in the Confederate States navy, and was taken prisoner by the Federals in May, 1864, escaped from Fort Delaware on the following July, went to Canada on his way back to Richmond, and was engaged in the attempt to release the confederate prisoners confined in Johnson's Island, Lake Erie.

He took his departure from Detroit, a United States port, when entering on the expedition, which only resulted in his party capturing the United States steamers Philo Parsons and Island Queen; and afterward landing in Canada, where he was arrested by the authorities of that colony, and arraigned on several false charges in connection with these captures, all of which broke down in the Toronto courts, when, as a last resort, the charge of robbing the purser of the steamer Philo Parsons of $20, and as false as the others, was made the pretext of his surrender. His acts in connection with these captures were ratified and assumed by the confederate government, and were (when taken in connection with a war undertaking) generous and humane, no person being injured, and personal property scrupulously respected.

He was tried on 11th July last at Port Clinton, Ohio, on the above-mentioned "charge of robbery," and after a day and a half's proceedings, the jury (notwithstanding a highly favorable charge by the judge) did not agree to a verdict, and he was sent back to prison to wait another trial, unless bail to the amount of $3,000 be deposited.

His defense has already been carried through at great expense; a new trial must necessitate a repetition of this, if he is to have counsel at all; and this is more than can be provided for him again by his relatives and friends.

From information that has reached me, it appears clear that a sum of money as bail to be forfeited is what is wanted by those who hold him in custody—a sort of ransom, in fact.

I have brought his case, on several occasions, under the notice of the foreign office; but as the authorities of Upper Canada were the chief instruments in compassing his extradition, which, in view of all the circumstances of his case, must be acknowledged to have been contrary to precedent, and a violation of international law, I deem it right to bring his case before the colonial office, in the hope that the authorities therewith connected may see fit to adopt means to effect his release as reparation, in part, for his unjust surrender, either by providing the bail or forfeit, which appears to be the chief thing wanted, or by engaging counsel for his defense on his next trial, which takes place about the middle of October. I have already stated that neither can be provided by me, or other relatives or friends, although a contrary belief and expectation appears to prevail in the quarters of his imprisonment.

I append a letter which appeared in the Toronto Leader, during his trial in Canada, giving a correct statement of the circumstances attending the captures.

I also append a summary of the United States judge's charge to the jury on the occasion of my son's trial on 11th July last, which, notwithstanding its favorable tenor, had no effect on a prejudiced jury.

I am, &c.,

ROBERT BURLEY.

Summary of Judge Fitch's charge in the case of Bennet G. Burley.

The evidence was clear, and the participation of the defendant was clearly proven, but the theft must be found to have been made with felonious intent; the intent was one thing, and the act another.

* * * * * * *

A confederate government existed, and engaged in carrying on war; that said confederate government had appointed the defendant an "acting master" in her navy, * * * and in obedience to the orders of his superiors he had committed an act for which he was now arraigned.

A state of war existed between the Federal Government and the confederate government, so called, and it made no difference whether the United States Government admitted it or not, the rights of belligerents must be accorded them; the charge was only applicable to a state of war.

* * * * * * *

As a soldier of the Confederate States government, he had a soldier's right to capture the steamer, and appropriate her, and any money belonging to her, to the cause of his government.

* * * * * * *

An expedition may have all the force gotten upon the territory of a neutral power that it would if gotten upon an enemy's territory; the going on the boat in disguise made no difference. Men must have authority for taking the lives of persons. A *de-facto* government could give it; no difference how frail the government, it has the ability to grant such privileges. * * * He had a right, if commissioned, to take the boat, money, or other property, for the furtherance of his government.

Mr. Hammond to Mr. Elliot.

No. 28.] FOREIGN OFFICE, *September* 20, 1865.

SIR: I have laid before Earl Russell your letter of the 14th instant, inclosing a copy of a letter which Mr. Burley has addressed to the secretary of state for the colonies, in which he applies for the assistance of Her Majesty's government on behalf of his son, Mr. Bennet G. Burley; and I am to request that you will state to Mr. Secretary Cardwell, in reply, that Earl Russell concurs in the answer which he proposes to return to Mr. Burley.

I am, &c.,

E. HAMMOND.

Sir F. Rogers to Mr. Burley.

No. 29.] COLONIAL OFFICE, *September* 22, 1865.

SIR: I am directed by Mr. Secretary Cardwell to acknowledge the receipt of your letter of the 8th instant, applying for the assistance of Her Majesty's government on behalf of your son, Mr. Bennet G. Burley; and I am to inform you that your son's case is one in which Mr. Cardwell is unable to interfere.

I am, &c.,

FREDERICK ROGERS.

Petition of Richard Baker Caldwell.

To his excellency and lordship the governor-general of the Dominion of Canada:

The humble petition of Richard Baker Caldwell, of Prescott, in the county of Grenville, in Ontario, in the Dominion of Canada, respectfully represents:

That your petitioner has been, ever since the month of May, 1869, a resident, with his family, at Prescott, aforesaid, engaged in establishing the business of manufacturing boards and shingles, and that his family still there resides.

That your petitioner was forcibly taken from his said residence upon a warrant issued by his honor Alexander MacNabb, police-magistrate at Toronto, upon the information and complaint of Albert Duane Shaw, of the city of Toronto, American consul, stating that your petitioner was guilty of the crime of forgery, committed within the United States of America.

That said charge of forgery was entirely false, and was cunningly devised and intended for the purpose of bringing your petitioner within the limits of the United States of America, so that he might be held amenable for certain alleged offenses which were not extraditable under the provisions of the Ashburton treaty.

That, after the arrest of your petitioner upon said charge of forgery, and after hearing the evidence offered by said A. D. Shaw to substantiate said charge, your petitioner was, upon said charge, and by the authorization of your lordship, in pursuance of the provisions of the treaty between Her Britannic Majesty and the United States of America, commonly called "the Ashburton treaty," ratified August 9, 1842, providing for the extradition of persons charged with certain offenses, extradited and delivered over to the authorities of the United States, as by the certificate of the said police-magistrate, hereunto annexed, will more fully and at large appear.

That your petitioner, ever since he was so forcibly taken out of the Dominion of Canada, has been confined in a jail in the city of New York.

Your petitioner further humbly shows that the charge of forgery made against him, under which he was taken from his family and home in Canada, and brought to and confined in a gaol in New York, is wholly false, and is made colorable only by the oaths of witnesses who acknowledge that they committed the crime, and say that your petitioner was an accessory or accomplice with them.

Your petitioner further humbly shows that ever since he was so brought to New York he has been anxious to be tried upon the charge for which he was so extradited.

That an indictment has been found against your petitioner in the circuit court of the United States for the southern district of New York, for the alleged offense under the acts of Congress of the United States of bribing officers of the Customs and of the Internal-Revenue Departments, and that he is about to be tried for said alleged offenses, which said offenses, your petitioner is advised, do not fall within said treaty known as the Ashburton treaty, or any other treaty between Great Britain and the United States of America.

That your petitioner, being called upon to plead to said indictment, did interpose a plea to the jurisdiction of said court in the words following, to wit:

"That said Richard B. Caldwell, having heard the indictment against him read, says that this court ought not to take cognizance of the offense in said indictment specified, because, protesting that he is not guilty of the same, he nevertheless says that at the time when he was arrested and brought within the jurisdiction of this court he was a resident of Prescott, in the province of Ontario, Dominion of Canada, and was brought into the jurisdiction of this court on a charge of forgery, under the provisions of the treaty between Her Britannic Majesty and the United States of America, commonly called the Ashburton treaty, ratified August 9, 1842, providing for the extradition of persons charged with certain offenses, and that the offense specified in said indictment is not one of the offenses mentioned in the said treaty, and that this court has no jurisdiction in the premises.

"And this he, the said Richard B. Caldwell, is ready to verify; wherefore he prays judgment, if this court will or ought to take cognizance of the said indictment, and that he may be dismissed and discharged."

That a demurrer was interposed in behalf of the Government of the United States, wherein and whereby the facts in said plea stated were admitted, and that the said court thereupon rendered an opinion and judgment upon said plea and demurrer, of which an exemplified copy is hereunto annexed; and while your petitioner humbly craves your lordship's attention to the whole of said opinion, he particularly prays attention to the following passage therein contained:

"The prisoner was brought within the jurisdiction of the United States by virtue of a warrant of the executive authority of a foreign government, upon the requisition of the executive department of the United States; and while abuse of extradition proceedings, and want of good faith in resorting to them, doubtless constitute a good cause of complaint between the two governments, such complaints do not form a proper subject of investigation in the courts, however much those tribunals might regret that they should have been permitted to arise."

Your petitioner further shows that he is advised by his counsel, and believes, and therefore respectfully submits, that it has always been the decision and determination of the governments of Great Britain and the United States of America not to permit any person to be taken from the territory of either to be put upon trial in the other except for the particular offenses specified in their mutual treaties, and that the authorities and cases in support of this position are quoted at large in "Forsyth's Cases and Opinions on Constitutional Law," published at London, 1869.

That it is in violation of the law of nations, and of the spirit, and true intent and meaning, if not of the very language, of the treaties between Great Britain and the United States, that your petitioner has been taken from his home in Canada, upon pretense that he was guilty of a crime for which he might properly be extradited, and is now put on trial for an alleged offense for which extradition could not have been demanded or permitted.

Your petitioner, therefore, humbly prays your lordship to ask of the Government of the United States of America that it do not permit your petitioner to be tried for any other offense than that upon pretense of which your lordship allowed the warrant for extradition, or at least not for any offense upon charge whereof your lordship would not have allowed said warrant of extradition to issue.

Also, that the said Government of the United States of America may grant to your petitioner an early trial for the offense whereof he was charged and extradited, and of which he avers himself innocent; or if said Government cannot or do not within a reasonable time establish that your petitioner is guilty of an offense for which his extradition could be properly demanded, then that said Government cause your petitioner, at their own expense, to be returned to his home at Prescott, in Canada.

And your petitioner, as in duty bound, will ever pray, &c.

Dated Ludlow street goal, in the city of New York, this 12th day of January, 1871.

RICHARD BAKER CALDWELL.
WM. HENRY ANTHON,
Counsel for Petitioner, 16 Exchange Place, New York.

UNITED STATES OF AMERICA,
State of New York, City and County of New York, ss:

Richard Baker Caldwell, of Prescott, in the county of Grenville, in the province of Ontario, in the Dominion of Canada, being duly sworn, doth depose and say that the foregoing petition is in all respects true in substance and matters of fact.

RICHARD BAKER CALDWELL.

Sworn this 12th day of January, A. D. 1871.

WM. L. GARDNER,
Notary Public, New York City.

United States circuit court, southern district of New York.

THE UNITED STATES *vs.* RICHARD B. CALDWELL AND OTHERS.

JANUARY 3, 1871.

BENEDICT, J.:

This case comes before the court upon a demurrer to the plea. The prisoner has been indicted for the offense of bribing an officer of the United States.

To this indictment the defendant pleads that this court ought not to take cognizance of the offense in the indictment, because that at the time when he was arrested and brought within the jurisdiction of this court he was a resident of Prescott, in the province of Ontario, Dominion of Canada, and was brought into the jurisdiction of this court on a charge of forgery, under the provisions of the treaty between Her Britannic Majesty and the United States of America, commonly called the Ashburton treaty, ratified August 9, 1842, providing for the extradition of persons charged with certain offenses; that the offense specified in said indictment is not one of the offenses mentioned in the said treaty, and this court has no jurisdiction in the premises. To this plea the Government demurs, and thus the question is raised whether the facts set forth in the plea are sufficient to oust this court of jurisdiction to try the defendant for an offense otherwise conceded to be within its cognizance.

On the part of the defense reliance is placed upon sending cases in the tribunals of this State, which furnish, it is claimed, a support to the proposition of the defense that this court has jurisdiction of the person of the prisoner for a single purpose only, namely, his trial for the crime for which he was extradited.

The cases referred to are all civil cases, wherein the service of the warrant of arrest set aside by the court on motion, because it appeared that the plaintiff in the action had

resorted to fraud to procure the presence of the defendant within the territorial jurisdiction of the court in order that he might cause his arrest. Such cases do not furnish a rule applicable in criminal prosecution, nor do I find any case where a warrant of arrest of a person charged with crime at the instance of the people has been set aside because of deceit practiced to bring the accused within the reach of the warrant.

But if the same rule were applicable in criminal prosecutions and in civil actions, and if the question here arose upon a motion to set aside the arrest instead of a plea to the jurisdiction, I am of opinion that the relief could not be granted, for the reason that the person of the prisoner is not within the jurisdiction of the United States by virtue of any warrant issued out of this or any court. The prisoner was brought within the jurisdiction of the United States by virtue of a warrant of the executive authority of a foreign government upon the requisition of the executive department of the Government of the United States, and while abuse of extradition proceedings and want of good faith in reverting to them doubtless constitute a good cause of complaint between the two governments, such complaints do not form a proper subject of investigation in the courts, however much those tribunals might regret that they should have been permitted to arise.

To hold otherwise would, in a case like the present, permit a person accused of crime to put the Government on trial for its dealings with a foreign power. In the present case there is hardly room for the charge that the extradition proceedings against the accused were in bad faith, inasmuch as the records of this court show an indictment duly found against the accused for the crime, by reason of which his extradition was granted; but whether extradited in good faith or not, the prisoner, in point of fact, is within the jurisdiction of the court, charged with a crime therein committed, and I am at a loss for even a plausible reason for holding upon such a plea as the present that the court is without jurisdiction to try him.

The question appears to me to be not one of jurisdiction of the court, but rather of privilege of the accused from arrest, and I cannot say that the fact that the defendant was brought within the jurisdiction by virtue of a warrant of extradition for the crime of forgery affords him a legal exemption from prosecution from other crimes by him committed.

I may add that the case of Hulborne, which so far as I know is not reported, probably affords a precedent for the action of the Government in the present case.

Hulborne was delivered by the Government of the United States to the government of Great Britain upon a charge of forgery, when the facts out of which the charge arose were proved before commissioners.

The ground taken in his behalf was that the crime committed was not forgery, but embezzlement.

The commissioner held otherwise, and the prisoner was extradited, but upon arrival in Great Britain he was there indicted and convicted of embezzlement upon the same facts which had been claimed before the commissioners to show forgery. That case, therefore, presented the point now taken here, but whether it was taken upon the trial in Great Britain I do not know. I do not, therefore, refer to the case as an authority, but simply notice it as perhaps a precedent.

The demurrer must be held to be well taken, but the defendant has leave to withdraw his plea and enter a plea of not guilty.

A copy.

KENNETH G. WHITE,
Clerk.

Report of a committee of the honorable the privy council, approved by his excellency the governor-general on the 8th of February, 1871.

The committee of council have given their attentive consideration to the annexed report, dated 6th February, 1871, from the honorable the minister of justice, in reference to the petition of Richard Baker Caldwell, who was surrendered to the United States under the extradition treaty, on the charges of forgery and uttering forged paper, and they concur in the opinion given in the said report that the matter of this petition is one for the consideration of Her Majesty's government, and accordingly recommend that it be transmitted by your excellency to the right honorable Her Majesty's secretary of state for the colonies, so that such action may be had upon it as Her Majesty's government may deem expedient.

Certified.

WM. H. LEE, *W. P. C.*

DEPARTMENT OF JUSTICE, OTTAWA, *February* 6, 1871.

In the matter of the petition of Richard Baker Caldwell, the undersigned, to whom the matter was referred, has the honor to report:

That the petitioner was surrendered to the United States Government, under the treaty with England, on the charges of forgery and uttering forged paper.

That the petitioner appears to have been a resident of the United States until after the alleged commission of those offenses, when he removed to Canada.

That the petitioner states that, although he was surrendered for the crimes above-mentioned, he has not yet been tried for them, and that those charges were not made *bona fide*, but for the purpose of securing possession of his person, and in order to put him on his trial for the offense against the laws of the United States of bribing officers of the customs and Internal Revenue Department.

He further states that he was indicted for the last-mentioned offense, and pleaded to the indictment; that he was surrendered and brought within the jurisdiction of the court on the charge of forgery, and could not properly be tried except for that charge. To this plea the Government of the United States demurred, and the court decided in favor of the demurrer.

The petitioner quotes a portion of the judgment said to have been delivered upon the occasion, as follows:

"The prisoner was brought within jurisdiction of the United States by virtue of a warrant of the executive authority of a foreign government upon the requisition of the executive department of the United States; and which abuse of extradition proceedings, and want of good faith in resorting to them, doubtless constitute a good cause of complaint between the two governments, such complaints do not form a proper subject of investigation in the courts, however much those tribunals might regret that they should have been permitted to arise."

The petitioner thereupon prays by your excellency to ask the Government of the United States that it do not permit him to be tried for any offense other than that upon pretense of which he was surrendered, and also that an early trial may be accorded to him for such offense.

The undersigned is of opinion that the matter of this petition is for the consideration of Her Majesty's government, and he therefore recommends that it be transmitted to the right honorable the secretary of state for the colonies, so that such action may be had upon it as Her Majesty's government may deem expedient.

JOHN A. MACDONALD.

The secretary of state for the colonies to the governor-general.

DOWNING STREET, *May* 16, 1871.

MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatch of the 20th of February relating to the case of Richard Caldwell, who was surrendered to the United States Government under the extradition treaty, on the charges of forgery and uttering forged paper, and who is alleged to have been subjected to legal proceeding in the United States for an offense against the laws of that country for which he was not surrendered, and for which he was not liable to surrender under that treaty.

I have been in communication with the secretary of state for foreign affairs as to this case, and the opinion of the law-officers of the Crown has been taken upon it.

Her Majesty's government are advised that this is not a case in which they would be justified in claiming the surrender of the petitioner from the United States Government.

The obligation of Great Britain under the convention of 1842 is qualified by no other condition than that evidence of a definite kind shall be forthcoming of the fugitive having committed one of the crimes enumerated in the convention. It appears that such evidence was produced to the satisfaction of the Canadian authorities, and the petitioner was therefore surrendered to the United States Government.

It further appears from the decision of the judge of the circuit court of the southern district of New York, upon the demurrer of the petitioner, that he has been duly indicted for the offense by reason of which he was surrendered, and it seems that he is to be tried for it.

Her Majesty's government are further advised that there is nothing in the convention which would preclude the indictment of the petitioner in the United States for an addditional offense which is not enumerated in the convention, so long as such proceedings were not substituted for proceedings against him on the charge by reason of which he was surrendered.

The original inclosures which accompanied your dispatch are herewith returned, in compliance with your request.

I have, &c.,

KIMBERLEY.

No. 154.

Mr. Pierrepont to Mr. Fish.

No. 14.] LEGATION OF THE UNITED STATES,
London, July 25, 1876. (Received August 7.)

SIR:

* * * * * * *

I attended the debate and send you a full report, and also the editorial in the Times.

I was surprised at the little interest it seemed to excite after the speeches of Lord Granville and Lord Derby. The statement of the lord chancellor about the small number who remained is sufficiently correct; but if he had said nine instead of twelve he would have been more accurate. There seems to be an increasing disposition on the part of the Times to sustain Lord Derby, as you will see by reading the editorial, and it is now understood that the lord chancellor is coming to his aid; but the argument is clearly with Lord Granville, and I am sure that the general sentiment is on our side, and is fairly reflected by the editorial of the Daily News, which is also inclosed.

* * * * * * *

I have, &c.,

EDWARDS PIRREPONT.

[Inclosure 1 in No. 14.]

[The Times, Tuesday, July 25, 1876.]

Lord Granville did not interfere at all too soon in the extradition controversy, which has brought us so inopportunely into a sort of conflict with the Government of the United States. It would have been altogether unsatisfactory if the session had terminated without some expression of opinion on the part of English statesmen as to the subject of this dispute. As Lord Granville, at the opening of his speech last night, declared, extradition must be regarded as an act of comity in itself, and as an advantage both to the country demanding and the country granting it, while it must, at the same time, be acknowledged that no nation has a "right" to make the demand without a previous arrangement, and that political offenses are distinctly excepted from the category of extradition crimes. The last point was one which this country had guarded with special care, as was shown by the fact that in 1870, when the question became the subject of legislation in this country, England had only three treaties of extradition with foreign nations, while France and America had some thirty each. This difference is not at all a proof of greater carelessness as to the international pursuit of crime, but it is evidence of our more anxious solicitude to protect political criminals from the vengeance of hostile governments. Among the treaties, however, by which we had then bound ourselves was the Ashburton treaty of 1842, and the controversy which has arisen on this compact with the United States Government turns upon one simple conflict of construction. The Americans argue that when extradition has once been effected, and the accused person has been surrendered to the government demanding it, the surrendering government has no further concern with his fate. He may, they assert, be tried for the extradition crime, or for any other crime upon which the Government that has got the custody of him may choose to indict him. On the other hand, the British government, in the recent dispute, has contended that a person "who has taken refuge in England, and has been surrendered after certain legal proceedings for the purpose of being tried on a specific charge, is only lent, so to speak, to the government which claims him, for the purposes of that trial;" and if that indictment fails, he reverts to his former privileges of asylum. Such was the doctrine which Lord Derby last night laid down in the House of Lords; and we do not understand that Lord Granville upheld substantially a different doctrine. The difference arises when we apply these reasonings to the treaty of 1842, in which no special provisions were admitted with the object of securing the point on which so much stress is now laid. It may be that thirty-four years ago the experiences of contracting nations in matters of extradition were imperfect; or it may be that it was thought unnecessary to take any special securities of this sort in dealing with a country like the United States, which valued so highly personal liberties and the right of political eccentricity. At any rate, no stipulation was inserted in the treaty of 1842 limiting the right of the country de-

manding extradition to deal according to the forms of its law with criminals surrendered under the eleventh clause. But, according to Lord Derby, the right to try prisoners so surrendered for any or every crime is contrary to the spirit and intention of the treaty, contrary to its interpretation hitherto, and contrary to the principles laid down in repeated parliamentary discussions alike at Westminster and at Washington.

Upon this contention, and not upon the act of 1870, the refusal of our government to grant the extradition of Winslow and others in the same case has been founded. In answer to Lord Granville last night, Lord Derby laid stress not so much on any English statute as on an act of Congress, upon which, however, Mr. Fish puts a different interpretation. That act says that the person surrendered from the United States "shall be delivered up to be tried for the crime of which such person shall be so accused." But does not this imply that until the present controversy arose the American Government took the same view as our own of the obligations of extradition? It was pointed out last night, however, by Lord Granville and other peers on the opposition benches that the law officers of the Crown in former years had taken a different view; and it appears, at any rate, that when questions arose upon the point which is now contested the legal advisers of the government were of opinion that the principle should not be immediately pressed. Whether, in giving this advice, they inclined to the view that the principle should be altogether abandoned is, at least, a doubtful point, and Lord Derby is justified in maintaining that it remains unimpaired. In any event, the political aspect of the case is not affected by the opinion of the law officers of a dozen or half a dozen years ago, and, upon the political question, the act of 1870 is really a conclusive piece of evidence. The doctrines laid down in that statute may be criticised in some particulars, but their main lines cannot be altered in the present temper of the English people. There is no need, as Lord Derby said, to talk claptrap; but the preservation of the right of political asylum is as dear to the citizens of this country as it was nearly twenty years ago, when they overthrew a strong government and a most popular minister on the mere suspicion of tampering with it. We do not suppose that the Government of the United States is likely to abuse the right of extradition in order to oppress its political enemies; but we do not know what the Government of the United States may be ten years hence, nor can we safely trust to a sentiment which may change with a breath of popular passion. What is more, we "cannot have one rule for the United States and another for the rest of the world;" and assuredly in revolutionary times we could not hope to secure the right of extradition from abuse as an engine of political oppression by the governments of Europe without some stringent safeguards of the kind now disparaged by the leaders of the opposition in the House of Lords.

Of course this question of policy is altogether distinct from the question of legal interpretation, on which, if the government were misled, it is to be censured in the usual way. Lord Granville and Lord Kimberley express a very strong opinion on this point. They allege that the government was not authorized to refuse the demands of America for the extradition of Winslow and others, and that, at any rate, it would have been proper to wait until the Americans had violated what we contend to be the law before upsetting a most important international compact. But Lord Derby, we think, is clearly in the right when he argues that, the difference of interpretation having once become apparent, the maintenance of the treaty in its present form became unsatisfactory, and, indeed, impossible. It was obviously better to raise a definite issue at once, and Winslow's case gave the occasion. It is now as obviously necessary to prevent this legal dispute from being turned into a shield for criminals, and to this end, we may hope, the Government of the United States will readily agree in what Lord Derby calls "a provisional arrangement which shall prevent rascals from benefiting by the falling out of honest men." If that arrangement can be carried out, the two governments will be enabled to approach the grave political questions on which they differ so strongly in a spirit of sober compromise. Possibly we may see the State Department at Washington quickly returning to the mood in which the negotiations for a new draft treaty were conducted some time ago. Then, as Lord Derby reminded the House of Lords last night, an article was proposed by the British government embodying the principle now disputed, and the American Government not only accepted the article, but suggested that it should be strengthened by the insertion of words intended to make its meaning more distinct. This fact is a sufficient proof that the American Government cannot have any objection, on the ground of principle, to a definition of the right of extradition in the sense and with the object for which Lord Derby has been contending. If Mr. Fish is only dissatisfied with the manner in which the issue has been raised, he may be contented by Lord Granville's protest and Lord Derby's explanations. No offense, it is plain, was intended, and the Americans, of all people in the world, should be the least disposed to take umbrage at a sturdy difference of opinion, especially when the differing party is making a stand for personal and political liberties.

[The Daily News, Tuesday, July 25.]

The debate on the extradition question in the House of Lords was brought to a sudden close last night in a manner which every one must regret. The lord chancellor had only just begun the speech, to which the house naturally looked as the legal defense of the government's policy, when he declared that his physical condition rendered it impossible for him to continue, and he had to resume his seat. The house indeed had already seen only too clearly that Lord Cairns was far too weak to go on with his speech. Every one was grieved rather than surprised, when, after a moment's pause, he found himself obliged to withdraw from the house. Under these circumstances, and acting on a suggestion made by the lord chancellor himself in the last few hurried words he spoke before resuming his seat, the adjournment of the debate was moved and agreed to. We should of course regret in any case the breakdown of a debate caused by the illness of so distinguished and so valued a member of the government as Lord Cairns. But there is perhaps an especial reason why the government, and, we may add, the country, should feel sorry for last night's collapse. It is desirable in every sense that the government should be able to make out a decent case for the course of policy they have adopted in regard to this extradition question. The government in its dealings with foreign states represents the English people. No partisan of the opposition, however eagerly he might wish to see the ministers embarrassed in our Parliament, could desire to see them placed at any disadvantage when carrying on a controversy or a negotiation with the government of a foreign country. Therefore, every one, we presume, would have been glad if our ministers could have shown that, whether right or wrong in the conclusions to which they had come in dealing with the question of extradition between England and the United States, they had at least some fair reasons for their view and could escape the charge of ignorance or inconsistency. The debate of last night did nothing to relieve them from this charge. It is perhaps somewhat of a compliment to call it a debate. The argument was all on one side; and, indeed, except for Lord Derby, even the speakers were all on one side. We cannot tell what ingenuity Lord Cairns might have displayed or what new light he might have thrown over the legal part of the controversy; but in the absence of this new light we can only say that the reasons for the course adopted by the government remain more obscure than ever. In truth, the public can only be courteously invited to suspend their judgment on the formal ground that the lord chancellor was not able to speak, and that had he spoken he might possibly have said something which certainly has not yet been said by any one on behalf of the government.

Lord Granville's speech was clear, earnest, and able. He had to dispose of two points principally in dealing with what we may call the lately existing treaty. He had to show that the case set up by the government was wrong when it relied upon the act of 1870 to give a new interpretation to the treaty of 1842, and wrong when it insisted that the British government had always maintained the view of the treaty's bearing lately upheld by Lord Derby. The foreign secretary himself became willing to give up his reliance on the act of 1870, although in his correspondence he at one time distinctly appealed to that act as the authority by which alone the American treaty was kept alive. Lord Granville had an easy task in showing, what indeed its mere statement ought to make obvious, that an act of Parliament passed in 1870 cannot affect a treaty made some twenty-eight years before, and that in any case an act of the English Parliament cannot bind the United States. The illustration which Lord Granville drew from the steps taken by Russia a few years ago with regard to that clause of the treaty of Paris which restricted her in the Black Sea was very appropriate and effective. Russia had at all events to obtain the assent of the other powers concerned in it before she could establish a modification of the clause; but the foreign secretary at one time maintained that we had a right to alter by an act of our own Parliament the effect of a treaty made long before with a foreign power. We need not, however, dwell on a contention which Lord Derby seems now to have completely abandoned. But the other point was made quite as clear. Lord Derby was mistaken, and very strangely mistaken, when he contended that the position he took up was that invariably maintained by the British government. Lord Derby, we need hardly remind our readers, contends or contended that when we surrender a criminal to the United States Government on one particular charge he cannot be tried in the States on any additional charge without a new formality of extradition. In defense of that position he appealed first to the act of 1870, which undoubtedly would justify him if it could apply to all past time and to foreign countries. Falling back, however, from this line of defense, he contended that his view of the treaty was that which had always been maintained by Her Majesty's government. Here was a question of fact; and on this, as we have more than once shown, and as Lord Granville showed last night, he was entirely wrong. We have already quoted the statement of Mr. (now Lord) Hammond before the select committee of 1868. We have already mentioned the instances in which the British government deliberately acted on an interpretation of the treaty directly opposed to that which Lord Derby maintained. Lord Granville put the matter beyond the possibility of doubt last night. He sometimes even apologized very natu-

rally to the lords for a seeming waste of time in repeating the evidence of so obvious a fact.

Lord Derby, however, so far as we could follow his argument, did not seem to understand the bearing of this part of Lord Granville's speech. He appeared to think it enough to contend that his interpretation was right, and that of his predecessors wrong, and to insist upon the obvious fact that the declarations of a ministry do not necessarily bind its successors. But it was not a question of the comparative virtue of different interpretations or of the power of one set of ministers to bind another set. Lord Derby had justified his view of the treaty by the allegation that it was the view always upheld by British governments. Lord Derby was utterly wrong in his facts, and of course his argument had to go with them. Were he entirely right in his view, and his predecessors perversely wrong, his argument would have gone all the same. Lord Granville, in the early part of his speech, objected strongly to the kind of argument that because a certain provision would be of great advantage, and ought to be in a treaty, therefore it must be in the treaty. But, although thus forewarned against such a line of argument, Lord Derby, as far as we understand him, placidly adopted that and some other fallacies throughout his speech. There was, we think, something in what Lord Kimberley said, that the government were, in any case, a little too quick in interpreting the claim of the American Government to construe a treaty in a particular way as a breach of the treaty. Perhaps, too, we may acknowledge that there is a good deal of sense in Lord Grey's remark that we allowed ourselves to be carried away rather too far by our sensitive, and in itself very creditable, eagerness for the full preservation of our right of asylum. Guided by our dread of having to give up political prisoners, or of being deceived into giving them up, we seem to have acted as if our general duty was to protect all fugitives from foreign justice, and as if only in exceptional cases had we any right to surrender them. There can surely be no real difficulty in the way of our making satisfactory arrangements with the United States, and establishing a treaty better in all respects than the one which has failed. Out of this recent unlucky muddle may come some good. Perhaps last night's debate, imperfect as it was, may help to bring about this end. But as a defense of the Government's action it was a failure. We only hesitate to say that the failure is complete, because we must suppose that the lord chancellor has something to say, and he was not allowed to say it last night.

[Inclosure 2 in No. 14.]

[The Times, Tuesday, July 25, 1876.]

EXTRADITION.

Earl Granville, in proceeding to call attention to the correspondence respecting extradition, said: The secretary of state for foreign affairs, while asking me last week to postpone my motion for a few days, seemed to agree that the subject of the papers to which I am about to call your attention is one worthy of the notice of Parliament. By the difference between the governments of this country and of the United States as to the construction of the treaty of 1842, a position of great inconvenience has been created for both countries. It is a position from which both countries must wish to extricate themselves, and I hope we shall learn this evening that by the delay asked for last week some progress has been made in that direction; but, in any case, I believe that parliamentary discussion, and possibly parliamentary action may be useful and requisite; and if it be carried on in the same moderation of tone, with some slight exceptions, as it appears to have been done by both parties in the diplomatic correspondence, no harm can be done. Though writers on international law have differed as to the obligation of surrendering the fugitive criminals of friendly foreign countries, I believe the result at which all civilized nations have arrived is this: 1, that it is an act of comity in itself; 2, that it is an advantage to both countries: 3, that no nation has a right to make this demand without a previous arrangement; and 4, that in no case ought persons to be so surrendered for political offenses. No country has been more strenuous in the assertion of the last important principle than Great Britain and the United States. Two questions are involved in the papers upon which I am about to comment. They are distinct questions, although they have been somewhat mixed up: 1. The execution by Her Majesty's government of the existing treaty. 2. The negotiations for a new treaty. I will deal in the first instance with the second question, and with regard to it I am not aware that Her Majesty's government are open to any criticism apart from the difficulties which have arisen out of the refusal to surrender Winslow, and the possibly unnecessary stereotyping of our position in the last dispatch. The facts regarding this negotiation for a new treaty are as follows: In 1870, while France and the United States had each more than fifty treaties of extradition with foreign countries, we had only three, viz, with the United States, with France, and with Denmark. This fact was due to

a jealousy on our part, which I trust will never be abandoned or weakened, as to the maintenance of the rights of asylum for political offenders. A committee was appointed in 1868 to consider how best extradition could be combined with the maintenance of the right to which I have just alluded; and founded upon the recommendations of that committee, a bill was introduced, which passed in 1870. This act extended the number of offenses for which extradition might be made, facilitated the machinery for the purpose, and at the same time introduced new provisions for securing a person from the danger of being tried for any political offense. I succeeded to the foreign office after the passing of that act, and it was my duty to circulate to our representatives abroad a copy of the act, and soon afterward a model draft treaty. The result was that I was able to conclude treaties with Germany, Italy, Austria, Belgium, and Brazil, and other important countries—a list to which the noble earl has made useful additions. Negotiations on my part immediately began with the United States for a new treaty, and during the last month of my tenure of office information came from Sir E. Thornton that the only obstacle left was the objection of the United States to accept any authority but that of Her Majesty's government to decide what constituted a political offense. This proposal appears to have been objected to by the present government, as it had previously been by the late government, but negotiations under the act of 1870 have been continued up to the present time. I am bound to say these negotiations have been conducted in a conciliatory spirit by our foreign office, and also more consistently than by Mr. Fish, who during the course of them has withdrawn concessions which he had previously made. I am sorry to say that as regards the execution of the treaty Her Majesty's government do not appear to me to stand so well, either as regards their law or their policy. It may be presumptuous in an unlearned person to criticise the law of the government, with all the high professional assistance which they command; but I am encouraged, first, by the points raised not appearing to be very abstruse; second, by the knowledge that very high legal authorities take my view; and, third, by the fact that the government have in the correspondence constantly changed their own ground. The whole question arose out of the solicitors of a Mr. Lawrence having in July last year informed the home office that their client was about to be tried for a second offense, in addition to his trial for the offense for which he had been surrendered. At the instance of the home office the noble lord opposite protested, on the grounds that such a course would be contrary to the 3d section of the extradition act, by which act alone (section 27) the American treaty is kept alive; and contrary also to the law which governs the practice of the United States Government as laid down in the act of Congress, 1848, and contrary to the practice of all countries. I believe that not one of these grounds is tenable. [Hear.] What has the act of 1870 to do in an argument with a foreign country about a treaty concluded 28 years earlier than the passing of that act? It either agrees or disagrees with the treaty. If it agrees, there is no need to refer to it. If it disagrees, in what position are we placed? During the French and German war, the Russian Emperor declared that he would no longer consider himself bound by a particular provision of the treaty of 1856. But although France, Germany, Austria, and Italy had previously intimated that Russia ought no longer to have this particular provision imposed upon her, which was of a galling character, we indignantly and successfully resisted the assumption that the Emperor, by his own act, could free himself from this obligation. Supported by the unanimous voice of Europe, we obtained from His Imperial Majesty a distinct retractation, and a declaration that it was "an essential principle of the law of nations that no power could liberate itself from the engagements of a treaty, or modify the stipulations thereof, unless with the consent of the contracting powers by means of an amicable arrangement," and in that declaration we ourselves unreservedly joined. After that solemn declaration how could we have pretended that the treaty of 1842 was affected by our municipal act of 1870? Fortunately, however, it is quite clear that it was the intention of the legislature in 1870 to maintain inviolate the treaty of 1842, and I could show that, in the opinion of the highest authorities, although the language of the 27th section might have been more precise, the legislature were successful in their intention. But the question of the act of 1870 as regards the United States is irrelevant, and has been admitted by the government to be so in later parts of the correspondence. As to the second point, I will refer later to the construction of the American act of Congress. With regard to the third point, as to the practice of all nations, these papers show that in America, in Canada, and in Great Britain the practice has been as the Americans state it to have been. As to European nations, I doubt whether any evidence which is exact is forthcoming; and it must be remembered that all our treaties with European powers excepting France date since 1870. It appears from the papers that it was in August the protest founded on the irrelevant grounds suggested by the home office was sent to the United States, and that in the following month, September, the law-officers were consulted. The substance of their opinion is not given in the portion of the foreign-office letter which is given to Parliament, and they are not again referred to, so I do not know what their

advice may have been. In answer to our protest, the Government of the United States repudiated our claim, gave their view of our arguments, but took proceedings to prevent a second trial of Lawrence, and gave us some assurances to that effect. These assurances, however, are not quite consistent with subsequent declarations of *non possumus* made by them. The extradition of a certain Winslow was demanded by the United States Government, and refused by us, excepting on the condition that the United States Government would give an assurance that this person should not, until he had been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried for any offense committed prior to his surrender other than the extradition crimes proved by the facts on which the surrender would be grounded. The demand for this assurance was placed solely on what had passed in the case of Lawrence and the act of 1870—that act which I have already shown was irrelevant, and which Her Majesty's government subsequently abandoned. The United States Government again reply on the 31st of March at great length, and with arguments which are not easy to meet. A rejoinder, dated the 4th of May, is sent by the noble earl (Lord Derby) to Colonel Hoffman, and in this dispatch a new line of argument is adopted—whether upon the reconsidered opinion of the law-officers or based upon the opinion of a still higher authority I cannot say; but I incline to the latter opinion, and, if I am right, I cannot help thinking that that high authority has in this and in some previous cases found himself in the same position as great consulting physicians are not unfrequently placed. The physician finds the patient ill; he is determined to save him. He thinks the treatment must be changed, but he also wishes to do nothing which may endanger the reputation of the family doctors. ["Hear, hear," and a laugh.] In this dispatch of May 4 it is explained that the act of 1870 imposed no new condition on the treaty of 1842, and it is argued that the treaty contains within itself provisions for which Her Majesty's government contend, and it is for the first time distinctly stated that the provisions of the act of 1870 have no force or effect in any foreign state. And, again, on the 7th of May the noble earl (Lord Derby) tells Sir E. Thornton that Her Majesty's government do not rest their case on the act of 1870, but on the general principles of extradition, the language of the statutes of both countries putting the treaty of 1842 in force, and the care taken to specify in the treaty the particular crimes for which extradition can be granted. The additional papers which have been presented contain two more important documents on the execution of the treaty of 1842—a very long dispatch of Mr. Fish, giving the whole views of his Government, and a very able, but not, to my mind, convincing rejoinder from the noble earl (Lord Derby.) In this rejoinder the argument founded on the practice of all nations is omitted, and the act of 1870 is only mentioned to be dropped. But the foreign office is again good enough to explain to the Government of the United States the construction of their own municipal law—the act of Congress of 1848. Though a little rash, it may have been a natural thing to do at the outset of the controversy; but, after an answer had been received from the Government of the United States to the effect that not only the Government and their law officers but also their judges in court take an exactly opposite view of the right construction of that act, it does appear to be a strong and (I will not say ridiculous, but) an anomalous thing for us to continue to explain to them the meaning of their own laws. [Hear.] Then the cardinal question of the case is stated, viz, that it is an essential principle of extradition, as permitted or practiced by this country, that a person surrendered on an extradition treaty can be tried for the offense for which he is surrendered, and for no other offense previously committed; that this is the proper construction of the treaty of 1842; that it is the meaning which was attached at the time, and which has since been continued to be attached by this country to that treaty, and that it is the meaning which they had understood was attached to that treaty by the Government of the United States. [Hear, hear.] It is possibly from the want of legal acumen on my part, but I cannot find a trace of this condition in the treaty of 1842. It is certainly not there in words; and if it was understood to be there, why was it not expressed in words? The act of 1843, confirming that treaty, was warmly debated in this house and in the House of Commons. Mr. Macaulay and others expressed great alarm lest false charges should be made and false cases got up merely to get possession of a slave. Lord Aberdeen, the late Lord Derby, Sir R. Peel, and the attorney-general, repudiated the insinuation against the Government of the United States that they would lend themselves to getting up such a false case; but how comes it, if there was an understanding that a surrendered criminal was only to be tried for one offense, and could not be tried for any other, that none of them explained that this safeguard was in the treaty, although it was not expressly stated? [Hear, hear.] If the condition was in the treaty, why did Sir Thomas Henry, in his evidence before the committee of 1868, say that it was a provision in some treaties and not in others? and why, I should like to know, if the provision was in the treaty with the United States—in which treaty it was not—should he recommend it to be expressly inserted in all future treaties? And why was it necessary so to insert it in the act of 1870? [Hear, hear.] An ingenious argument is urged to show that the provision was so necessary to the treaty that it must be in it. I do not see any great force in the

point as to the surrender of criminals being limited to a specified number of offenses. The chief object of that specification is to prevent a friendly government having to put all its administrative and judicial machinery into motion for any petty and trifling misdemeanor; but when that specification is accompanied by a provision that the crime for which extradition is demanded must not only bear the same name in both countries, but must constitute the offense called by that name in the country called upon to surrender, it may in some cases be a useful safeguard against proceedings for a political offense. But when you proceed to argue that the safeguard is incomplete without a provision that no fugitive criminal can be tried for a second offense, it may be a very fair and good argument in itself, as the committee of 1868 and the Parliament of 1870 evidently thought. It may or may not be a conclusive argument for the future, but no one can pretend that it is such an axiom as could not have been disputed by the negotiators of 1842, who might have thought it a very great impediment to the administration of justice if the condition had been proposed to them; still less that, from the mere fitness of things, it must have necessarily been in the essence of a treaty in which nothing is said about it. I see nothing to make me believe that this condition is in the treaty of 1842. Her Majesty's government states what has been their understanding, and what they believe to have been the understanding of the treaty of 1842, and what they believe to have been the understanding of the United States.

The United States Government declare exactly the reverse as being their understanding, and what they believe to have been our understanding. Here we have assertion against assertion. What proofs does either side bring forth? Sir Thomas Henry is the first in these papers to make the assertion that has been adopted by Her Majesty's Government. It is hardly consistent with what he stated to the committee in 1848, and he brought forward no proof whatever in support of his belief. It remains, therefore, simply an expression of his belief—a statement which no one who knew Sir Thomas Henry could for a moment doubt; but yet only a statement of his own belief. What other evidence does the noble earl (Lord Derby) adduce? A statement made ten years ago by himself as secretary of state for foreign affairs, and one made on the same occasion by the noble lord on the woolsack as attorney-general. These statements were *obiter dicta* during a debate when the two noble lords were arguing against a provision being introduced which the noble and learned lord said added a new term to the treaty of 1842. The statement of the noble earl, (then Lord Stanley,) though not quite so clear as he usually makes them, is perfectly consistent with the theory he now holds. The attorney-general's statement is not inconsistent with that theory, but at the same time it is also not inconsistent with the opposite theory to which I will presently allude. The words are, "We should have a well-founded complaint against any country that demanded a man to be given up for one offense and then proceeded to try and punish him for another." I also hold that we should have reason to complain of a country demanding the surrender of a man for one offense and then trying him for another; but I contend that under the treaty of 1842, after the man has been tried for the offense for which he has been given up, there is nothing to prevent his being tried for another; and the words of the attorney-general do not necessarily go further than this. But be that as it may, there remains no proof on the side of the Government excepting these two sentences uttered in the heat of a debate. What proofs are alleged on the other side? First, the *dicta* of text-writers. Such *dicta* are always quoted on international controversies, and I should therefore have thought had some weight. But as they are summarily disposed of in the dispatch of Lord Derby as of trifling importance, I will not trouble your lordships with the quotations, which you can find in Mr. Fish's argument. But there is another witness entirely in their favor whom the United States quote, who is treated with as little reverence as the text writers. It is the noble lord behind me, who, as Mr. Hammond, was fifty years in the foreign office, and who during half the time the treaty lasted was the head of the permanent staff of the foreign office. He is one who knows all the traditions of the foreign office, good, bad, and indifferent, absolutely by heart, and who was lately so gracefully alluded to by Lord Derby as his teacher in foreign affairs. If Mr. Hammond had merely stated his own opinion on the construction which had been accepted by the foreign office as to a particular treaty, I can imagine no stronger witness in Great Britain; but Mr. Hammond expressly stated in his evidence that his opinion was in accordance with that of the law officers. There is another witness, Mr. Mullens, an eminent solicitor, who has been more engaged in extradition cases than any one. He not only gave his opinion as to the understanding of the treaty by this country in the opposite sense to the present contention of the government, but he mentioned a case—that of the Heilbron, who was tried for a second offense after having been tried for the offense for which he was surrendered—a case concerning which the government can only answer that they were ignorant of it, and were not concerned in the case. To sum up the evidence given before the committee of 1868: There were six witnesses. Of these, Sir Thomas Henry, Mr. Hammond, and Mr. Mullens gave the opinions that I have quoted, and not one of the other three witnesses gave an opposite opinion. What

other evidence is there in favor of the United States Government? As to the understanding which existed in both countries, they have the decisions of courts in the States, and the cases of persons actually tried for a second offense. There are also the decisions of the courts of the Dominion of Canada in the same sense, and from what I hear the government of the Dominion are much concerned, and entirely repudiate the position which Her Majesty's government have taken. But what appears in the last batch of papers which have just been presented? Those papers show three things. In the first place, they show that 11 years ago Mr. Seward informed our government of the construction which the United States then put on the treaty, which is diametrically opposite to that now held here, and which disposes of the assertion of the contrary understanding on the part of the Government of the United States. Secondly, they point to the case of Burley, before the act of 1870, on which the foreign secretary, Lord Russell, gave his opinion in communication with the colonial secretary, Lord Cardwell, and upon advice of the law officers, who I believe were the late lord chancellor, who is sitting behind me, and the present master of the rolls, that it would be a breach of faith to substitute another offense for that for which Burley was surrendered, but that, if Burley were *bona fide* tried for the first offense, it would be difficult under the treaty to question the right of the government to try him for any other offense, whether such offense was or was not a ground or extradition, or even without the treaty. Does the Burley case prove that the present contention has always been maintained by the Government of the United States and by Her Majesty's government? In my opinion it proves diametrically the reverse. Well, what does the Caldwell case prove? The Caldwell case is summed up in the following letter:

"DOWNING STREET, *May* 16, 1871.

"MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatch of the 20th of February relating to the case of Richard Caldwell, who was surrendered to the United States Government under the extradition treaty on the charges of forgery and uttering forged paper, and who is alleged to have been subjected to legal proceedings in the United States for an offense against the laws of that country for which he was not surrendered, and for which he was not liable to surrender under that treaty. I have been in communication with the secretary of state for foreign affairs as to this case, and the opinion of the law officers of the Crown has been taken upon it. Her Majesty's government are advised that this is not a case in which they would be justified in claiming the surrender of the petitioner from the United States Government. The obligation of Great Britain under the convention of 1842 is qualified by no other condition than that evidence of a definite kind shall be forthcoming of the fugitive having committed one of the crimes enumerated in the convention. It appears that such evidence was produced to the satisfaction of the Canadian authorities, and the petitioner was therefore surrendered to the United States Government. It further appears, from the decision of the judge of the circuit court of the southern district of New York, upon the demurrer of the petitioner, that he has been duly indicted for the offense by reason of which he was surrendered, and it seems that he is to be tried for it. Her Majesty's government are further advised that there is nothing in the convention which would preclude the indictment of the petitioner in the United States for an additional offense which is not enumerated in the convention, so long as such proceedings are not substituted for proceedings against him on the charge by reason of which he was surrendered. The original inclosures which accompanied your dispatch are herewith returned, in compliance with your request.

"I have, &c.,

"KIMBERLEY."

Unless I have committed some great blunder, it appears to me that I have shown that the different legal positions which have been taken by Her Majesty's government in this matter are not unassailable. It appears to me that the papers themselves demonstrate that it is absolutely the reverse of the fact that Her Majesty's Government have always maintained the doctrine which it has been attempted to hold by Her Majesty's present government. I presume that my noble friend will hasten to assure the house, if he has not already given that assurance to the United States, that this last declaration was made *per curiam*, and I believe that any such declarations would pave the way to more easy negotiations for a future treaty. I do not know whether he will attempt to defend the conflicting assertions as to law which he has been advised to make. But he has one complete answer as regards the foreign office. It is in no sense a legal office. Until this month there has never been a professional lawyer in the office, and I am not quite sure that the introduction of the legal element into the office may not be productive of more embarrassment than advantage. Whenever a legal question has arisen, the foreign office has been advised by the highest authorities on it. In the case of extraditions, the foreign office have always acted ministerially for the home office, and therefore, if the noble earl defends the foreign office on the grounds that the legal opinions have been taken from others, although it does not

clear the government at large, the answer is complete as respects the foreign office But how about the policy, for which the foreign office is clearly responsible? Would it not have been better to delay protesting till the occasion arose, and thus postpone till it was necessary that which committed us, and obliged the United States to commit themselves, and this more especially as there was not the slightest chance as regards this particular treaty of danger to the principle of affording an asylum to political offenders? This was the course Mr. Seward took eleven years ago, when, assenting up to a certain point to Lord Russell's doctrine but going beyond it, he said with good sense, "But this is an abstraction, and I will not deal with what does not arise." But what was the view of Lord Derby? The following letter in reference to the case of Charles L. Lawrence was written in November last by his instructions:

"I am directed by the Earl of Derby to transmit to you, for the information of Mr. Cross, a further dispatch, which was received on the 16th instant from Her Majesty's minister at Washington, from which it appears that the United States Attorney-General has instructed the United States district attorney at New York to the effect that the trial of Lawrence is to be proceeded with on the charge of forgery, for which his extradition was granted, and that if he should be acquitted of that charge the district attorney is to await further instructions. Under these circumstances Lord Derby would suggest, for Mr. Cross's consideration, whether it would not be advisable that any representation to the United States Government on this subject should be, in any case, postponed until after the trial of Lawrence for the extradition crime for which he was surrendered, and that any instructions to Sir E. Thornton should be framed accordingly. His lordship's reasons for this suggestion are that in the event of Lawrence being convicted of this crime and not being indicted for any other offense, no representation to the United States Government would be necessary, and that in the event of his being acquitted of the extradition crime, and then indicted for other offenses, the opportunity for making a representation to the United States Government would be a more fitting one than at present. In the latter case, also, Her Majesty's government would be acting with a full knowledge of the course which the United States Government intends to pursue, and would therefore be in a better position to protest, if necessary, than they are at present, as it still appears doubtful whether Lawrence is to be tried for offenses other than the extradition crime for which he was surrendered."

No opinion could be more judicious, and I am perfectly convinced that if this judicious advice had been adopted we should have heard no more of the question, and we should have avoided all the irritating circumstances which now make the negotiation for a new treaty so difficult. [Hear, hear.] On the other hand, it must be admitted that if this opinion had prevailed we should now be deprived of the society of three American citizens whose surrender has been demanded but not granted, and who will remain with us for life, or until the moment they are detected in murdering, robbing, or cheating in this country. ["Hear, hear," and a laugh.] But the home office would not hear of this; they were in such a hurry that their only rejoinder was a direction not only to send off a protest, but to send that protest by telegraph, and they only forwarded their reasons at a subsequent period. [Hear, hear.] Mr. Disraeli announced to the Commons the other day that the home secretary is the chief secretary. He is no such thing. The secretaries of state are of equal rank, taking formal precedence according to the date of the creation of their respective offices. [Hear, hear.] But in this case the home office appears to have assumed some such authority, for not only does it overrule the foreign office in a matter which belonged to the latter, but a little later we find the home office scolding the foreign office for not having made its points with sufficient clearness. The one fault for which I think the foreign office was responsible was yielding to the home office on a matter on which the latter, perhaps naturally enough, only took the one-sided view. But, whoever is to blame, this question of extradition has come to a dead-lock. I believe the treaty has not been put an end to, but it remains a dead-letter. It is clear that neither government will ask for or grant the surrender of any criminal under it. I hear already of cases where criminals have openly boasted of their safety. We have already this year secured for ourselves the society of three persons against whom very grave charges have been made. The late Lord Derby told the House of Commons that an extradition treaty was of much greater importance to us than the United States, especially with regard to Canada. I do not care to enter into the proportionate share of inconvenience which each country—the commercial communities above all—will have to bear, but we must not conceal from ourselves that the evil is not to be measured by the number of extradition cases which have occurred. It is rather to be gauged by the amount of crime which will be augmented by the increased chances of impunity to the criminal. [Hear, hear.] In these circumstances I trust that the government will see their way to some mode of extricating ourselves and the United States from this difficulty. [Hear, hear.] Is there no hope that the delay which was asked for last week may result in our being told this evening that the United States are conceding the differences that still exist as to the terms of a new treaty? The difference which remained when the late government went out of office was so small that some arrangement ought to be arrived at

on it. [Hear, hear.] The act of 1870 was a good act and has produced much good; but can any one say that it had attained the perfection of human wisdom on this matter? It is certainly the opinion of many competent persons that it could be made *more elastic* as regards the extradition of ordinary criminals without in the least degree affecting the right of asylum to political offenders. [Hear, hear.] There is another suggestion which I venture to throw out: It was proposed eight years ago that instead of treaties we should have a law applicable to the demands of all countries for the extradition of criminals, without troubling ourselves whether the other countries responded or not. It was considered at the time, and it was decided that it was better to proceed by treaties under a general law. But times are now changed. We have treaties with nearly all the principal countries in the world except Russia and the United States. If we passed such a law, being of a reasonable character, and somewhat more elastic than the present, it is almost certain that the United States would avail themselves of it, and would, as has already been suggested to them in America, pass a law on their side. It is for the interests of both countries to obtain their own fugitive criminals, and it is not in their interest to monopolize the possession of the fugitive scoundrels of other countries. ["Hear, hear," and laughter.] I should prefer a new treaty cordially agreed to, but I throw out this suggestion in case Her Majesty's government find difficulties arising in negotiation for a treaty, which would not occur in separate legislation. But whatever the course may be which Her Majesty's government think fit to pursue, this house will agree with me in the conviction that the government will not be satisfied with having written a smart argumentative dispatch to conclude the discussion, but will apply themselves heartily to the work of changing a state of things which Sir Robert Peel eloquently denounced more than a quarter of a century ago as a public disgrace, viz, that two such countries as Great Britain and the United States should each consent to remain a refuge for the criminals of the other country. [Cheers.]

The Earl of DERBY.—Before I go into the main question which the noble earl has raised, I may be allowed to refer to the request I was reluctantly compelled to make on last Friday night for a postponement of this discussion until to-day. I had up till that time hoped to be able to make a statement this evening material to the actual condition of the facts. Since Friday I have received no communication on the subject, and I am not at present in a position to make any such statement to the house as I had hoped to do. My only justification, therefore, for asking for delay on Friday last is that I did not ask it for my own convenience or in the interest of the government, but for the interest of the public. [Hear, hear.] The question which the noble lord has raised, has been so long and so often before the public that all the facts and the arguments on both sides, embodied in the late correspondence, are presumably familiar to all who have cared to acquaint themselves with the subject. I propose, therefore, in explaining the course which the government has taken, to confine myself as far as possible to a general statement of the principles on which we have acted. Putting it briefly, the controversy between the American Government and ours is this: We take different views of what is meant by extradition and of the construction which is to be placed on the treaty between the two countries. The American contention is that when the forms prescribed by treaty have been gone through, and when extradition has once been effected, the person so extradited is for all purposes in the hands of the government which has received him, although he may have been acquitted of the charge on which the extradition was granted, although in the original demand for his surrender no mention was made of any other imputed offense, and even although the offense for which he is put on his trial a second time may be one not included in the list of extradition crimes. They argue, in short, that, once in their hands, and having been tried for the extradition offense, he remains in their hands for all other purposes. We, on the other side, contend that a person who has taken refuge in England, and has been surrendered after certain legal proceedings, for the purpose of being tried on a specific charge, is only lent, so to speak, to the government which claims him for the purposes of that trial; and if, upon the charge so brought, he is not found guilty, then we say he is entitled to his freedom, and cannot be claimed again, except after a repetition of the preliminary inquiry which is necessary before extradition is granted, which, of course, implies that he must have an opportunity of returning to England. These are the two opposite views which are represented in the correspondence, and which each side has endeavored to support by argument. The American case seems to rest mainly on this, that the treaty contains no express stipulation on the subject; that it simply provides a method by which the accused person shall be surrendered to the government claiming him, and that, in the absence of anything said to the contrary, the government or the courts of law once legally in possession of the man, are personally entitled to deal with him, subject to no restraint except that which is imposed by its own laws. They further argue that on certain occasions the right which they claim has been exercised and no objection made, and that it has been exercised in England, by English courts, as well as in the United States. We admit that the treaty contains no stipulation on the subject, the case, as we con-

ceive, not having been provided for by those who framed it. But, on that part of the case, our answer is that the right which they claim is contrary to the general spirit and intention of the treaty; contrary to what has always been understood as the practice; contrary, also, to the principles laid down both by the British Parliament and the American Congress. We contend that the government surrendering an accused person does so only after having satisfied itself by means of a judicial inquiry that there is a reasonable *prima facie* case which justifies the putting him on his trial—just as no man can be tried here without first being committed by a magistrate, or, in some cases, without a true bill being found against him. It is also necessary that it should be shown to the satisfaction of the magistrate so committing the person for extradition that the offense of which he is charged is included among extradition offenses, and is not political in its character. Now, we say that both these safeguards are absolutely done away with if it is understood that a man extradited for one offense can be tried for another without a fresh extradition being made. A man is charged, say, with forgery. Extradition is granted. He is tried in America and acquitted. It is clear that if all the facts which came out on the trial had been known to the committing magistrate he would not have been extradited at all on that charge. What right, then, has the state, which has only got hold of him as presumably guilty of that offense, to deal with him on another charge in a way that they could not have done if he had not been in the first instance unjustly accused? They are, in such a case as I have supposed—I use the phrase in a legal and not in a moral sense—taking advantage of their own wrong. They have already subjected him to a forced deportation across the Atlantic, and to the inconvenience of a trial which has ended in his acquittal, and they then take advantage of having him in their possession—which, as the facts have turned out, they never ought to have had—to try him for something else as to which, if he had remained in England, it is quite possible that extradition would never have been granted. If we admit, as we must, that the treaty is silent on the subject, that it includes no express words to meet this class of cases, it seems to me that we are fairly entitled to contend that this is not a proceeding contemplated when the treaty was framed, or reconcilable with its general spirit. The treaty says: "Before a man is surrendered to take his trial there must be a preliminary inquiry in the country which gives him up." The American construction of the treaty says: "He is entitled to such preliminary inquiry in regard to the first offense for which we put him on his trial, but for any other offenses, however many, or of whatever kind, there need be no preliminary inquiry whatever." Now, that is just the one position which seems to me at least logically untenable. You may argue for the necessity of preliminary inquiry in all cases; you may argue on the other hand that such investigations are an unnecessary form, because if you trust the government to which you surrender the man, you may be assured, without such inquiry, that they will try him fairly, and if you don't trust the government to deal fairly, you should not surrender him at all. Either of these alternatives, I think, is fairly defensible, but it is not consistent with either theory to say: "We will give the accused the security of a previous inquiry in regard to the first offense for which he is tried, but we will not give it him in regard to any other charge subsequently brought against him." [Hear.] But as regards the intention of our government and Parliament we are not left to mere abstract reasoning or inference. We know by the act of 1870 what was and is the mind of the legislature on the question of principle involved. The act of 1870 provides that no surrendered fugitive shall be tried in the country which has demanded his extradition for any offense other than the extradition crime proved by the facts on which the surrender is grounded. Words cannot be plainer. Now, I don't quote the act, as I have been understood to do in America, as having a retrospective effect on treaties previously concluded. I fully admit that there is a proviso which, though obscurely worded, seems to except, and no doubt was meant to except, the case of treaties actually in force. I have a right to say that it is obscurely worded, for three judges who endeavored to construe it expressed doubt as to its meaning. It could not, in fact, be otherwise, because if the provisions of the treaty of 1842 had been retrospectively affected by the act of 1870, it would have been a matter of necessity either to alter the treaty or to modify the act. But I do quote the act as showing what is the principle which Parliament has laid down, and also as showing that that principle was not considered inconsistent with the treaty. If it had been so considered, does anybody suppose that the two would have been allowed to remain side by side? We could not maintain—the government of the day never surely intended to maintain—in a question affecting the administration of justice, one rule for countries which had made treaties with us before 1870 and another for those that had not. If, therefore, we left the act of 1870 to stand side by side with the treaty of 1842, it could only have been because we did not think them inconsistent in principle the one with the other. But I do not rest on that alone. In the English act of 1843, passed immediately after the conclusion of the treaty, the secretary of state is authorized to order the delivery of the person committed to an officer who is "to convey such person to the territories of the United States, to be tried for the crime of which such person shall be so accused." And not

only that, but the United States Legislature adopted almost identical language. The act of Congress of 1848 follows the very words of ours, and says that the accused person who is extradited from America shall be delivered up to be tried for the crime of which such person shall be so accused. Now, without wishing to lay too much stress on a phrase that seems to me very nearly equivalent to saying that he is not to be tried for any other crime except that of which he is so accused, the words are not required, and, indeed, have hardly a meaning, if you put any other construction upon them. The noble earl says: "The United States do not put that sense upon it, and you are very bold if you question their construction." But it is written in English, it is following the words of the English act, and surely an Englishman may venture to construe plain words. [Hear, hear.] Sir Thomas Henry advised that in a new treaty words should be inserted to make the meaning plain, and the noble earl wants to know why he did so. It is contended, however, that it is no longer open to us to maintain the construction of the treaty for which we argue, because we ourselves have, on various occasions, accepted a different interpretation. Now, I do not want to go into more detail than I can help, but I will take these various cases one by one. There is the case of Heilbron. He was surrendered by the United States on a charge of forgery, and tried in a British court for that offense. He was acquitted of forgery but convicted of larceny. He never appealed against the conviction, nor did the United States take the matter up; and, as a matter of fact, there is no reason to suppose that the circumstances of the conviction were even known to the government here. It cannot be said, therefore, that in this case there was any admission on our part. The court was not able to take into consideration the question of treaty, and it does not appear to have been ever before the court. The question, in fact, was never decided, because it was never argued or raised. The case of Bouvier was a case which arose under the extradition treaty with France. In that case again no action was taken or required to be taken by the government, the French law making it impossible that the man should be tried for any offense except that on which he was extradited. The only noticeable point in this case was that the Attorney-General for the time being, in the year 1872, that is in a government of which the noble earl opposite was a member, is reported to have said that "it was the law of France, and of every civilized country, that a man given up for an extradition offense should not be tried except for the offense for which he was given up. For this government to give a man up otherwise would be a most serious infringement of the right of asylum." We have never laid down the principle more strongly. I do not see how it is to be reconciled with the language held in the Canadian cases, but that is not my business. The Canadian cases are six in number. In two of them the prisoners had been surrendered by the United States, and were tried in Canada, and the courts seem to have held that being in custody they were liable to be tried for any offense which the facts might support. In two others, application was made by the United States for the surrender by Canada of prisoners who had taken refuge there, and the Canadian courts held that they were not justified, by the mere fact that the new act of 1870 did not secure these against trial for any other offense in refusing to give them up. That is not a decision on any other point except the wording of the act of 1870. It does not bear, as far as I can see, on the question of treaty construction at all. In all these four cases, if I am right, there is absolutely nothing to show that the home government was consulted at all; and I need not say that the decision of a Canadian court of justice cannot bind the government here, which probably knew nothing of the matter. The two remaining cases were those of Burley and Caldwell. Burley was surrendered by the Canadian government to the United States on a charge of robbery. It was represented to the British government that there was an intention of trying him on a charge of piracy, which had not been mentioned in the demand for his extradition. Upon that the law officers were consulted; they reported, no doubt, in a sense partially favorable to the present American construction of the treaty. But they advised that it was our right to protest against any attempt to change the ground of accusation. A protest was made accordingly, and led to a reply from Mr. Seward, which is so important that I wish to quote it at length:

"Mr. Seward to Mr. Burnley."

"DEPARTMENT OF STATE,
"Washington, March 20, 1865.

"SIR: I recur to your note of the 15th of March, which relates to B. G. Burley. The honorable the Attorney-General informs me that it is his purpose to bring the offender to trial in the courts of the States of Ohio and Michigan for the crimes committed by him against the municipal laws of those States—namely, robbery and assault with intent to commit murder. He was delivered up by the Canadian authorities upon a requisition which was based upon charges of those crimes, and also upon a charge of piracy, which is triable not by State courts, but by the courts of the United States. I am not prepared to admit the principle claimed in the protest of Her Majesty's gov-

ernment, that the offender could not legally be tried for the crime of piracy under the circumstances of the case. Nevertheless, the question raised upon it has become an abstraction, as it is at present the purpose of the Government to bring him to trial for the crimes against municipal law only.

"I have, &c.,

"W. H. SEWARD."

Mr. Seward, therefore, was under the impression—though I believe it proved to be a mistake—that piracy was among the charges on which Burley was surrendered. It does not seem that the protest was renewed, and our official knowledge of the facts ends here. Mr. Fish in his recent note says that he was tried for assault with intent to kill, but that is a fact of which till this correspondence we had no information. The case of Caldwell is generally similar. He was surrendered by the Canadian government on a charge of forgery. He was subsequently indicted in the United States for bribing a custom-house officer, as well as for the forgery. He pleaded that the court ought not to take cognizance of the offense; the court overruled the plea on the ground that it was one for the governments concerned to entertain, but which could not be dealt with by a court of law. He therefore appealed to the Canadian government. The matter was referred home, and the law officers advised that the case was not one in which Her Majesty's government would be justified in claiming his surrender. He had at that time not been tried for the extradition offense; and it was intended to put him on his trial for that offense. The decision not to interfere in the matter was communicated to the governor of Canada, and there the case ended so far as we are concerned. Now, I am not about to deny that these two cases show clearly enough that the view of our international duty taken by the then law-officers is different from that which we have been advised to adopt. [Hear, hear.] But I deny altogether that that difference of views disposes of our case. [Hear, hear.] I speak with the highest respect of the legal advisers of the governments of 1864 and of 1870, but they would not claim that their opinion could bind their successors. And observe this, that though they do not advise that in certain cases a claim should be pressed, though they express doubt whether it ought to be pressed, yet in no part of this correspondence has the claim ever been abandoned. We have never said to the American Government that we thought it one which could not be justly advanced. We have simply forborne to press it in certain cases, and it is possible and conceivable that other motives may have operated besides those of a judicial or administrative character. I can quite understand that both in 1864 and in 1870 reasons of a political character may have indisposed the then governments to press any demand on the United States as to which in their minds any doubt may have existed. I am not attacking what they did; but I contend that to waive a right on one occasion, or on two, is not to abandon it; that the opinions of the law-officers of one government, however deserving of respect, are not international documents; and that as between the United States and England nothing has passed which amounts to an abandonment of the claim which we put forward in this correspondence. I now come to the question which I have heard raised, and which has been raised by the noble earl this evening, whether, even admitting our construction of the treaty to be defensible, we have asserted it in the right way. It is argued that we ought to have waited until some actual violation of the treaty, as we construe it, had occurred, and that we had no right to call on the United States Government to abandon their construction of it—that we ought, in short, to have taken no action unless some person surrendered by us was actually put on his trial a second time. My answer is, that is shutting the door after the horse is stolen. The question is not one of law but of reason and common sense. When it is evident that an engagement is understood by the two parties to it in a different sense, the sooner that difference is cleared up the better. What would happen if we took the course suggested? Why, that the United States Government would, sooner or later, act on their presumed right, as they had given us notice that they would do, but we should dispute the legality of their action, and that we should be obliged by our expressed opinion to demand that a prisoner actually in their hands should be given back. That is a demand with which in their view of the case they could not honorably comply, and there you have a diplomatic complication ready made. It is running all risks in the future in order to secure a respite from trouble at the moment. I hear it said, again, that the risk run by conceding the question at issue is trifling; that the inconvenience of passing it is great, and that we had better have settled the matter anyhow than have it left open. My lords, I cannot admit that, as English ministers, we are justified in treating as immaterial a principle on which Parliament six years ago laid so much stress as to embody it in express terms in an act of Parliament, passed after much inquiry and debate. Parliament might release us from the obligation which it has imposed, but we cannot release ourselves. And this principle is not unimportant. It really involves the whole question of political asylum. [Hear, hear.] I have no wish to talk clap-trap about the right of asylum, but we know how strong the public feeling is in regard to it. Now, take such a case as this: A French refugee, mixed up in

the affairs of the commune, is asked for by his own government, *bona fide*, on a charge of non-political character. He is surrendered; he is tried and acquitted or condemned, as the case may be. But while in the hands of the French authorities it turns out that he has been mixed up in revolutionary disturbances, and after his acquittal they proceed to try him for that. Would not that be a case which, however worthless the person might be, would excite strong feeling in England? And yet what security have you that such a case might not occur if you abandon the principle that the extradited person ought to be free to return after trial on the extradition charge? It is argued, there is no fear of any question of the kind arising with the United States, because their feeling in such matters is the same as ours. To that I have a double answer. In the first place it is not wise in matters of business to rest on the supposed dispositions of other powers as your sole guarantee. We do not in private life suppose that everybody with whom we deal intends to cheat us, but we take a receipt when we pay money. But there is a further answer. You cannot have one rule for the United States and another for the rest of the world. Your extradition law must be the same for every country. Any other course would be invidious and untenable; and it is carrying confidence very far to affirm that no government exists anywhere to which you would not be ready to trust in a matter of this kind. I might push the matter still further. In the event of any person being put on his trial in the United States for a political offense, it would not be in the power of the Government to prevent the trial. Such is in brief our case. I can not take your lordships through the argument in detail, as it is set out in the published correspondence. But I may remind you of one fact—that there have been negotiations going on for a new treaty, which extended over a considerable time. In the draught of that new treaty we proposed an article embodying the principle for which we are now contending, and the Government of the United States, so far from objecting, accepted the article, and did more: they proposed to strengthen it by words which should make the meaning clearer. The failure to conclude a new treaty turned on an altogether different point; but upon this point the governments were absolutely as one. One thing to say this or that should be put in a treaty; another to say it is there. I think that is evidence that there is nothing in principle unreasonable in the view we have taken, and also—what is quite as important—it shows that there is no such difference between the two countries as should prevent the negotiation of a new treaty. Nobody is insensible on either side the water to the inconvenience that would be caused by an even temporary suspension of extradition. The two countries have absolutely the same interests, and the differences are not of a kind to be very difficult of arrangement. (Hear, hear.) We shall at once renew the negotiation formerly interrupted; it will be an advantage to all parties, for everybody admits that the old treaty is imperfect and unsatisfactory, and what I think we ought to aim at is the establishment, if it is likely that the negotiations will last some time, of what diplomatists call a *modus vivendi*, a provisional arrangement which shall prevent rascals from benefiting by the falling out of honest men. I do not think it is a disadvantage that this question should have arisen. There is an ambiguity in many respects in our extradition treaty with the United States, and there are many reasons for superseding it by a new one, and we shall do all in our power to see that that is done. (Cheers.)

The Earl of Kimberley said there was no dispute as to the right of asylum being maintained, and with the observations made on this point by the noble earl he fully agreed. Our duty seemed to him to be to refuse to deliver up any offender who, there was reason to believe, would be put on his trial for a political offense. In the case of a person being surrendered for one crime and being tried for another of a similar kind, he did not think we had any right to interfere. It was the common interest of all civilized peoples that crime should be punished, and it did not seem to him to be our duty to scrutinize narrowly the criminal law of foreign countries. All we had to do was to guard against criminals being tried for political offenses in addition to the crimes for which they were surrendered. If they were tried for offenses other than political, surely we had no interest in interfering. So far as the interpretation of the treaty of 1842 was concerned, the act of 1870 might practically be left aside, for it could not introduce any new conditions to be observed. The treaty itself was the only document which could properly be taken into consideration in forming an opinion on the subject. Now, in the treaty the sole condition laid down for the surrender of a criminal was that there should be sufficient *prima-facie* evidence shown to put him on his trial, and if any other condition was intended to apply, the absence of all mention of it was incomprehensible. Surely the natural presumption in this case was that no condition other than that laid down in the treaty was intended to take effect. The United States Government very justly remarked that the view taken by our government had not always been adopted in England. Indeed, he did not understand how the noble earl opposite, in view of the cases before him, could have asserted, as he did in one of his dispatches, that one of the essential principles of extradition, as invariably practiced in this country, was that an extradited person could only be tried for the crime on which he was surrendered. The fact was that two previous governments had taken a different view, and in making the statement which he did the noble earl certainly gave

an advantage to the American Government. He (Lord Kimberley) could not help thinking that the error of the foreign office was due to the great haste with which the matter was considered, only two days having elapsed from the time the subject was brought under the notice of the noble earl till he committed himself to the view, taken without sufficient inquiry, as it appeared, by the home secretary. The law-officers were not consulted till a later date, and it was rather a singular fact that their views were never referred to in the correspondence. He was inclined to think that if the noble earl, the foreign secretary, had waited until he saw what the issue would be, neither Lawrence nor Winslow would have really been tried for any other offense than the one on which they had been surrendered. And, considering that there was no actual breach of the treaty, and looking to the disposition which the United States Government had shown not to press their view to the utmost, he believed that the noble earl might, with a little more patience and forbearance, have saved the treaty from the abrupt termination at which it had, unfortunately, arrived.

Earl Grey could not help thinking that in that discussion the importance of what was called the right of political asylum had been exaggerated in a manner which was likely to lead to dangerous consequences. He admitted that it was not fit that this country should give up to the vengeance of a tyrannical government men who had risked their lives to obtain liberty for their country; and no doubt we should be utterly disgraced if we surrendered men who had stood out against such a government as that of the late King of Naples, or against such an act as the partition of Poland. But he held that the attempt to resist by force a settled government which performed, even perhaps imperfectly, the duty of all governments in maintaining peace and order, was a crime which, unless provoked by extreme oppression, was not only legally and technically, but morally, one of the greatest that men could commit. Looking at the enormous amount of evil which arose from civil war, he said that those who acted in that way were not entitled to the sympathy of mankind. Therefore he thought it was a great mistake to say that because there was some possible danger that in some very unlikely case a man might be punished for what was in itself an offense—namely, resistance to a settled government—in consequence of the measures they adopted to protect society against ordinary criminals, they were to neglect to make the arrangements with other countries which were absolutely necessary for the prevention of crime. The perils to society and to the maintenance of order would be very great if they were to push to the extreme which had been recommended from both sides of the house that claim to political asylum at the risk of preventing the surrender of ordinary criminals. They should take care how they establish a state of things which would offer enormous inducements to men, either in England or in America, who might think there was an opportunity by some great crime of realizing a large sum of money and then going to the other side of the Atlantic to enjoy their spoil in peace. He found from the correspondence that the secretary of state contended that no man should be tried in the country to which he was surrendered except for the one offense on which his surrender had been demanded. He believed that the American Government were perfectly right in saying that there was no provision of that kind in the treaty of 1842, and that in the absence of any such provision we had no right now to introduce that rule. Was it desirable, when they surrendered a man who was *bona fide* accused of one particular offense, that he should not be tried, convicted, or punished for any other offense which in the course of the proceedings it might come out that he had committed? He said that that was contrary to the common interests of all civilized society. A remarkable case lately occurred which proved the inconvenience of such a rule. A number of men were tried in this country for a most atrocious crime on board the Lennie. Some of them were convicted, and were most properly hanged; but the others, who were accessories after the fact, because of an arbitrary rule laid down in our extradition treaty with France, entirely escaped from punishment. But what would be the consequences were the view of Her Majesty's government in this case to be adopted permanently? Winslow had been charged with having committed fourteen or fifteen distinct cases of forgery; but witnesses had been sent to this country from the United States in support of one charge only. In the event of his being surrendered he ought, in the view of Her Majesty's government, only to be tried upon that one single charge, and therefore if, through the chances of the law, he succeeded in escaping from conviction upon that one charge, the United States Government would be precluded from trying him upon any of the other charges, and the end might be that a notorious criminal might get off altogether. Such a result would not, in his opinion, be for the advantage of the civilized world. (Hear.) The subject seemed to him to have been dealt with upon a wrong principle—that of an undue fear for the security of political offenders. Taking into consideration the close relation that existed between this country and the United States and Canada, the evil that would result from the immunity of fugitive criminals would be enormous. It was, therefore, with much regret that he heard the noble lord opposite say that our action on this subject must be largely influenced by a feeling of sympathy for political offenders. If the people of this country were unduly influenced by that feeling, it was the duty of the states-

men and the leading men in both houses of Parliament to endeavor to set them right on the point, and to show them that it was not for the sake of maintaining the freedom of political offenders, on behalf of whom too often an undue amount of sympathy was excited, that we should run the risk of allowing ordinary criminals to escape a just punishment. There was another and a very important point on which he wished to make a few observations. He had observed with great regret that the papers on this subject which had been laid before Parliament were additional examples of a mistaken system which had grown up of late years, under which the differences of opinion entertained by the various departments were exposed to the whole world. It appeared to him that that practice was calculated to break down and destroy the authority of government. The proper course would be for the cabinet to take the responsibility for these decisions upon themselves, instead of allowing these discussions to be made public. The inconvenience of the practice had been illustrated in the present case, where the United States minister had been able to quote the opinion of one department against that of another. (Hear, hear.)

Lord Hammond, having been referred to several times in the course of this debate as having given evidence before the committee of 1868, wished to make a few remarks on the question before the house. The attention of that committee had been very specially directed to two points, namely, the surrender of persons accused or liable to be accused of political offenses, and the liability of persons surrendered for ordinary crimes to be tried only for the offense for which their surrender might have been made. With regard to the propriety of exempting persons surrendered from being tried for any offense other than that for which they might have been surrendered there was no material difference of opinion between the witnesses, they all agreeing that it was desirable to provide against such a case. He had himself expressed a decided opinion that, according to existing law and practice, no objection could be raised to the subsequent trial of a surrendered criminal for any other crime besides the particular crime for which he was surrendered, provided that he had been *bona fide* tried for that crime. In conclusion, the noble lord suggested that the tenth article of the Ashburton treaty should at once be denounced by Her Majesty's government, if it had not already been so denounced by the Government of the United States. After what had passed, it seemed hopeless to attempt to negotiate on the basis of that particular article; but when a sufficient time had elapsed to admit of both countries feeling the inconvenience of no extradition treaty existing between them, it might be possible to come to an arrangement with the United States Government founded on the act of 1870.

Lord Coleridge entirely concurred in opinion with the noble earl who raised this discussion. When the case of Caldwell occurred, his right honorable and learned friend Sir Robert Collier was attorney-general and he himself was solicitor-general. He then held the opinion, which he still entertained, that there was no ground for the view which had been maintained by the noble earl opposite. It happened, too, that the proceedings in the French case which had been referred to were taken under the advice of himself, as attorney-general, his learned friend, the present master of the rolls, being then his colleague as solicitor-general. They were both of opinion that the view brought forward to-night by the noble earl near him, (Earl Granville,) was the true view which this country ought to maintain on the subject now under discussion. He and his learned friend had in other cases also to advise on their own responsibility the executive government of that day, and the view now put forward as to the strict construction of the act of 1870 never occurred to their minds. Whether the opinions held by him and his learned friend were right or wrong, others of course must determine, but at all events those opinions were not taken up lightly or for any political motive. He had always been of opinion that the act of 1870 could not in any fair construction be considered to have any bearing on treaties which, under statutes previously passed, themselves claimed the force of law. Indeed, his argument in the French case was that the French treaty was in no way affected by the act of 1870. The treaty with France was the same, for the purposes of this discussion, as the treaty with the United States. It was couched, as far as this matter was concerned, in substantially the same language, and it wanted the provision the absence of which gave rise to the present debate. The argument he adduced before the Court of Queen's Bench was that we were not only justified but bound to surrender to the French government the person to be tried, without there being a special arrangement in a particular case that he should not be tried for any offense except that for which he was extradited. The majority of the judges of the Court of Queen's Bench assented to the correctness of that argument. The only dissentient, if indeed he could be called a dissentient, was Mr. Justice Blackburn, who, however, did not doubt the intention of the legislature, although he thought it had not been expressed with sufficient precision in the act of 1870. His contention was that the Court of Queen's Bench had distinctly expressed its opinion that the act of 1870 could not have any retrospective effect on the treaty of 1842. It was clear that if we attempted to enforce upon somebody else a provision not contained in the contract, we should be endeavoring to enforce something that was inconsistent with it. (Hear, hear.) The argument that we had always acted on the understanding

hat the person delivered up should be tried only for the offense for which he was extradited, and that this understanding had been imported as an arrangement into all the treaties made prior to the act of 1870, appeared to him to be equally without foundation. In the first place he denied that we had in all cases maintained and acted upon such an understanding. The contention of the Government amounted to this—that a breach of the most technical rules in the construction of a treaty which ought to have the largest and most free construction between two great nations might make extradition in any case utterly useless. Take, for example, the case of Lawrence, who was said to be guilty of a long course of wholesale fraud. How, he should like to know, could all those charges be dealt with in a foreign country? There was a case now pending in our courts in which there were 145 different counts, each constituting a separate offense, and was it to be supposed that every one of those could be carefully gone into on the other side of the channel with endless trouble and at enormous expense, or that a criminal should go scot free for the fear the sacred right of asylum should be violated? He would not, at that hour, enter into the distinction which had been taken by Mr. Fish, and the answer of the noble earl opposite as to the meaning of the section of the act of 1870. He would content himself simply with observing that he thought the argument of Mr. Fish was entitled to a little more consideration than it had received at the hands of the noble earl. In conclusion, he had only to say that while the right of asylum was a right of which this country was justly proud, and while we most gladly welcomed political refugees to our shores, there was no good reason why we should welcome criminals in the ordinary sense, or look upon them as anything but most unwelcome refugees. (Hear, hear.)

The lord chancellor having remarked that the state of the house (there were only about a dozen peers present) did not give much encouragement to continue the conversation, and that more than one noble lord who had already spoken had retired without waiting to hear the answer to his arguments, went on to observe that there was a certain amount of inconvenience attending the way in which the subject had been brought on for discussion, inasmuch as no decided question had been raised. In the other house of Parliament he pointed out that Sir W. Harcourt had given notice of a motion to the effect that it was desirable to reconsider and amend the law relating to extradition with the view of providing more effectually for the execution of justice in the case of offenses not being of a political character. That notice indicated that in the opinion of that honorable and learned gentleman the law as it now stood was insufficient and required alteration; but the argument of the noble earl that evening, was not that it was desirable to amend the law, but that the Government had incorrectly interpreted it in their dealings with the United States. Now, he was one of those who had long held that very considerable modifications in our law of extradition were desirable, although he did not mean at present to say a single word on the character of those modifications. That was a subject for negotiation, and he would on that occasion simply address himself to the law as it stood. [The noble and learned lord had proceeded thus far when he was seized with what apparently was a slight fit of coughing, which prevented him from going on with his speech, and he quitted the house, observing before he left that if it were thought desirable he would move the adjournment of the debate.]

Lord Redesdale then took his seat on the woolsack, and after a few words from Lord Selborne expressive of his regret at the cause which had obliged the lord chancellor to retire from the house,

The debate was adjourned till to-morrow with a view to another day being then fixed upon for its resumption.

No. 155.

Mr. Pierrepont to Mr. Fish.

No. 19.] LEGATION OF THE UNITED STATES,
London, August 4, 1876. (Received August 16.)

SIR: I have the honor to inform you that the extradition debate was ended in the House of Lords last night. * * * * I went to the House of Lords at 5 o'clock, and Lord Selborne there told me that the debate would certainly come on. The government benches were pretty full and the opposition benches were very thin. The lord chancellor spoke for nearly two hours. I had heard him talk at dinner, but I had not heard him speak at any length before. His voice is good; his statement clear;

he never hesitates or repeats; his method is excellent, and his style is quite impressive. He was listened to with profound attention, and he was repeatedly cheered by the government side.

Lord Selborne replied in an able speech, less earnest than the lord chancellor's, but effective, as you will see.

I inclose a report of both the speeches and also the editorial from the "Times."

* * * * * * *

Lord Granville, as you will see by the report, withdrew his motion.

I have, &c.,

EDWARDS PIERREPONT.

[Inclosure 1 in No. 19.]

[The Times, Friday, August 4, 1876.]

EXTRADITION TREATIES.

The adjourned debate, on the motion of Earl Granville, "That an humble address be presented to Her Majesty for further correspondence respecting extradition," was resumed by the lord chancellor, who said:

I have to express my great obligation to your lordships for your indulgence in permitting me to-night to resume the discussion of this question. I shall endeavor to show my gratitude by compressing as far as the importance of the subject will permit, the remarks I have to make. I think I shall make my observations more distinct if I remind your lordships at the outset that there are connected with this subject two questions which are perfectly separate the one from the other. The first is whether there ought to be a new treaty made between this country and the United States and what should be the character of that treaty, and the other is whether Her Majesty's government, in executing the treaty which has existed and the powers which they possess, have properly interpreted their duty. The importance of keeping these two questions distinct was clearly manifested during the debate the other night. The noble lord who introduced the motion stated very fairly that he did not propose to enter into the negotiations for a new treaty, but he would confine himself entirely to what had already occurred; and your lordships will recollect that a noble earl who is not now present (Earl Grey) spoke also upon the general question as to what, according to his judgment, ought to be the character of the extradition arrangements between two such countries as Great Britain and the United States. Upon one of these questions I do not propose to say more than a word. The subject of the arrangements to be made for the future is one which may now be taken to be under negotiation. Her Majesty's government have informed the Government of the United States that they are prepared to enter upon that negotiation without any bias and without any prejudice arising from the correspondence which has passed. I am perfectly willing to confess there are many points in respect of which the arrangements between the two countries may be improved; and I think I shall have the assent of all your lordships when I say this was a question upon which the interests of Great Britain and of the United States are not only not antagonistic, but that they are absolutely identical. I have heard some calculations made as to the relative advantages which an extradition treaty bestowed upon the two countries; but I cannot see any difference whatever between the advantages to one country and to the other. I have seen it stated that you ought to take into account and compare the probable number of criminals which each country will have to demand back from the other. If we were able to ascertain that one would require the surrender of 10 and the other the surrender of 100, still I should maintain that the interests of the two countries are entirely identical. Of course it is the interest of a country to obtain the surrender of a criminal and to put him on trial for the offense which he has committed; but I maintain that it is equally the interest of the country of which that criminal, if he be a criminal, has made an asylum, to get rid of his presence. The country in which he has taken refuge is in this position: it cannot try him for the offense he has committed abroad, because it has been committed out of its jurisdiction, and it cannot have his presence without danger of the recurrence of the crime in consequence of which he has been obliged to take refuge. I now come to what really is the grave question raised by the noble earl. I mean the course which the government has taken in the late negotiations with the United States. It is extremely important to bear in mind, in a matter of this kind, what the position of the government is. *Prima facie* every person who takes refuge in this country, who makes this country an asylum, has a right to remain in it and cannot be removed from it. The government of this country is made by the legislature

the depository or trustee of certain powers, by the exercise of which that individual may be handed over to the country from which he has originally come. It is the duty of the government to construe those powers accurately, and to execute them up to the letter of their power, and the government have no authority to go one jot beyond the power which the legislature has intrusted to them. What the powers are which are intrusted to the government must of course be determined by looking at the nature of the authority which the government has received, and it is upon the construction of that authority that the difference in the present instance has arisen. Let me remind your lordships what are the two constructions which have been placed on the powers given to the government of this country with reference to the extradition of persons alleged to be criminals. The construction which was placed by the noble earl upon the power of the government is this: The noble earl, adopting the argument of the Government of the United States, contends that there are certain crimes for any one of which the Government of the United States may refuse the surrender of a criminal who is within this country. The noble earl says the person must be accused of the crime, and evidence must be given which would justify his committal in this country, and if such evidence be given he is to be handed over to the United States; but once he is handed over to the United States the noble earl contends it is in the power of the United States and the courts of that country, provided they go through the form of trying him in the first instance for the offense for which he is surrendered, to try him afterwards for any offense, greater or smaller, which may be alleged against him. That is the construction which the noble earl puts upon the duty and the authority of the government of this country. On the other hand, Her Majesty's government put this construction on their authority: They say they are ready to entertain the demand for the extradition of any person alleged to have committed any of the offenses mentioned in the treaty; they are ready to hear evidence of the criminality of the person; and if the evidence amounts to that which would justify a magistrate in committing that person for trial in this country, he is to be handed over to the Government and the courts of the United States, but he is to be handed over to be tried for that offense only, and if acquitted of that offense he is not to be tried for any other offense he may have committed. That is the issue between us. It appears to me a very simple one, and I think I shall be able to satisfy your lordships, not by any legal arguments, but by the application of common sense to the construction of common words, that the construction which Her Majesty's government have placed on their duty is the true and correct construction. My lords, before I come to the treaty which exists between this country and the United States, I desire to make a few observations. The noble earl (Granville) said the other night with great accuracy that the extradition of criminals or alleged criminals was founded upon the comity of nations. Extradition is not an obligation created by treaty. It has been regulated and molded by certain countries through the medium of treaties, but properly speaking it is founded upon the comity of nations, upon principles higher and broader than ever can be laid down in any treaty. My lords, it so happens that Great Britain and the United States have been rather lagging behind on the subject of extradition. Extradition was known for years before any treaty existed between this country and the United States; and when a treaty came to be made between this country and the United States it was made in order to supplement the power of the executive government, and not for the purpose of introducing any greater laxity into the general principle of extradition. Now, my lords, what are the rules laid down with regard to extradition in those countries where it has prevailed much longer than in this country and the United States? Nay, what is the cardinal rule on the subject of extradition? I have consulted the great jurists who have written on this subject on the Continent, and I will now lay before your lordships what has been said by one of them who wrote not very far distant from the time when the treaty was made between this country and the United States. I take the treatise of Fælix on private international law, in which an entire chapter is devoted to the subject of extradition. The author enumerates all the treaties which at the time he wrote existed between the different countries on the Continent; but he lays down as higher and older than any of the provisions in any of those treaties certain general rules which he says are implied in the whole question of extradition, and which govern it in all countries at all times. And this is one of his general rules:

"The person who is surrendered cannot be prosecuted or condemned except for the crime in respect to which his extradition has been obtained."

(Hear.) My lords, is there any doubt about the meaning of those words? The rule is not that he must be tried first for the crime on which he has been surrendered, and that then he may be tried for any other, but that he must be tried for the crime on which he has been surrendered, and for that crime only. And, my lords, what is the practice observed in France? The minister of justice in a circular dated the 15th of April, 1841, lays down the following rules on the subject of extradition:

"The extradition declares the offense which leads to it, and this offense alone ought to be inquired into. So that if during the prosecution for the crime which has led to

the extradition there should arise the evidence of a new crime, a new demand of extradition ought to be made."

But, my lords, that is not all. In a book with which some of your lordships are well acquainted, Dalloy's "Jurisprudence," I find a remarkable case in point which occurred between France and Geneva. A man of the name of Dermenon had been surrendered for trial for fraudulent bankruptcy. He was acquitted on that charge, but there was another against him for which he had not been surrendered. Then this is what I find:

"The procureur-général to the royal court of Dijon asks whether he must be brought before the tribunal of correctional police of that city or sent back to Geneva to be placed at the disposal of the government which has surrendered him. The keeper of the seals thinks that the latter alternative should be adopted. The letter written by the minister of the interior to the prefect of the Côte d'Or to inform him of this decision runs thus: 'It is only as accused of the crime of fraudulent bankruptcy that Dermenon has been delivered up to France by the Canton of Geneva. He is now purged of that charge by the decree of acquittal. Dermenon is therefore in the same position as if only a misdemeanor had been laid to his charge. It is clear that in that case his extradition could not have been obtained. It follows that we cannot take advantage of his having been given up to the French authorities upon a different ground to try him for acts which have not and could never have been the grounds of his extradition. The minister of justice has consequently directed the procureur-général to place Dermenon at your disposal, and I hasten, for my part, to request you to have him conducted immediately to the frontier, where he should be placed once more in the hands of the Genevese authorities.'"

That is pretty strong as to the principle on which France proceeded—a principle which forms the foundation of extradition and does not depend on the mere wording of any treaty whatever. But is France alone in this matter? I turn to a jurist of Holland, Kluit, who has written a very interesting treatise on the surrender of fugitives, in which he says:

"Is it lawful to punish the fugitive for any other crime than that for which he has been surrendered? The request for the surrender of a criminal is generally accompanied by a statement of the grounds on which it is made. The state in which he has taken refuge ought not to surrender him until those grounds have been made clear to it; in other words, it should ascertain whether the crime committed is of a character to justify his surrender. In truth, the criminal by his flight to another state becomes (although but for a time) the subject of the supreme power of that state, and immediately enjoys the protection and guardianship of that state. From that guardianship he cannot be forcibly taken except under a special agreement, the terms of which, we presume, certainly do not extend further than to those very grounds on which the surrender was demanded and granted. Therefore, if a state were to demand the extradition of a fugitive for a given crime, and then, letting the charge of this crime drop, were to bring him to trial and inflict punishment on him for some other crime committed by him, the mutual confidence existing between the two nations would be seriously impaired by an extradition demanded in so dishonest and underhand a manner. The surrendering state could not, indeed, though rightly maintaining that it had suffered an injury, at once do anything to prevent the perpetration of this fraud—for it would be absurd to fly at once to arms—yet it appears that it could fairly demand through the medium of its ministers representing it in the country of the other state, that the injury should be repaired—as, for example, by sending back the surrendered criminal; and in such a case it will be quite fair that all extradition shall be consistently refused to the offending state for the future, so that no handle may be given to unjust persecutions. * * * And even if it be not fraud, but only carelessness, that leads a state, after demanding and obtaining the surrender of a criminal, to bring him to trial on some other charge than that for which he was surrendered. such a proceeding should not on that account be passed over. The surrendering state gave up the criminal on consideration of the grounds stated, not of any different grounds. It may be alleged that it was a fair presumption and argument to say that the surrendering state would have been likely to surrender with much greater willingness a man accused of more crimes than one than a man accused of one only. But, on the other hand, it is a fair observation to make that that state might have declined to grant the surrender had it known that the other state would bring the criminal to trial on such or such a charge. Because it surrendered a man accused of incendiarism or murder, it must not be presumed that it would be equally willing to surrender one for political reasons, for persecution on account of religions, or for any trivial infringement of the law."

Finally I turn to a German writer, Heffter, who states:

"The individual whose extradition has been granted cannot be prosecuted nor tried for any crime except that for which the extradition has been obtained. To act in any other way, and to cause him to be tried for other crimes or misdemeanors, would be to violate the mutual principle of asylum and the silent clause contained by implication in every extradition."

Now, my lords, I think these authorities, and they might be multiplied, will satisfy your lordships that apart altogether from the wording of treaties, there is a silent and implied condition in extradition that the crime for which the surrender of a man is asked must be specified, and that it is for that crime alone that he must be tried. I am absolutely unaware of any authority who has ever witten the other way. So much for the general principle. Until I hear the contrary, I think I am entitled to ask your lordships to hold with me that it is the general principle of extradition that a man is to be tried only for the offense for which he is surrendered. I now come to the treaty of 1842 and to the British act of Parliament which gave effect to it. I take the treaty first. What does it provide? It embraces certain offenses—namely, murder, assaults and attempts to murder, forgery, the uttering of forged paper, piracy, robbery, and arson. It takes those seven offenses, and authorizes a demand and a surrender by way of extradition of any person who is accused of one of those offenses provided—I speak of course with regard to this country; the evidence given amounts to that which, according to British law, would justify a person's being committed in this country for trial. I ask what is the reason why seven offenses out of the whole catalogue of crime are singled out, and why, also, there is this provision made that the evidence given must be such as would show a *prima facie* criminality according to British law? What is the theory which would explain why this provision was made in the treaty? I listened with some anxiety to hear whether the noble earl had any theory on this point. I have heard two theories—one suggested by the noble earl and the other suggested elsewhere. I have seen it said that the reason why the treaty provides that this evidence of criminality according to British law is to be given is merely to guard against arbitrary arrests. But that is no answer at all, because it does not explain the reason why seven crimes are singled out. If the only object was to guard against arbitrary arrest, it would be sufficient to say that a man may be surrendered for any crime whatever provided there is *prima facie* evidence according to British law. But the suggestion of the noble earl is that those seven offenses only are taken because the object was not to invoke that cumbrous administrative machinery of the two countries and put it in motion for anything except large and considerable crimes. But, I ask him, are these seven the only large and considerable crimes? What does the noble earl say to embezzlement, or to obtaining money under false pretenses, or to manslaughter, or to rape, or to abduction?—and I might name many others.

None of these are mentioned in the treaty. No provision whatever is made for them; and, therefore, they being as considerable as the crimes that are mentioned, it cannot be that the object was to avoid the trouble of putting this cumbrous machinery in motion for insignificant offenses. Now I venture to give my explanation. The reason why the treaty was framed in this way is a very simple one. It is that these seven offenses are agreed upon between the two countries as the *delicta majora*, about which there could be no dispute, no controversy as to whether they trench on political considerations or not. They are singled out and taken as the only crimes for which extradition is permitted, and evidence is to be given which shall show that the particular crime has been *prima facie* committed according to British law in order that this country when it surrenders a person who is alleged to be a criminal may know beforehand what is the crime, and the only crime, for which he is to be tried, and what is the character of that state of facts which is said to lead up to and indicate that it has been committed. And the moment that you pass from the offenses named in the treaty and the evidence in support of those offenses and say that afterward the person surrendered may be tried for any other offense, you absolutely reduce to silence the whole of the provisions in the treaty. For what is the object of specifying one offense, and being made the judge of the evidence with regard to it, if, after his trial for it, which may be a mere formality and result in an acquittal and show that he ought never to have been accused of that offense at all, he may be tried in the country to which he is surrendered for any other offense they may please to lay at his door? (Hear, hear.) I may here quote one of the highest authorities in dealing with the subject, viz, the President of the United States. President Tyler communicated his treaty by a message to Congress. In a message to the Senate he gave this explanation of the character of the treaty. He said:

"The article on the subject in the proposed treaty is carefully confined to such offenses as all mankind agree to regard as heinous and destructive of the security of life and property. In this careful and specific enumeration of crimes the object has been to exclude all political offenses or criminal charges arising from wars or intestine commotions. Treason, misprision of treason, libels, desertion from military service, and other offenses of similar character are excluded."

(Hear, hear.) What is the use of excluding them if, after a surrender for any one of the offenses named, the person may be tried for these other offenses? Here is the message of the President of the United States explaining the treaty that was entered into, and explaining it in a sense which at once sweeps away the whole of the theory that a person can be tried for anything except what are called the crimes specifically enumerated, because if he could be tried for any one of the other offenses the guaran-

tee and safeguard on which President Tyler relied would be entirely removed. So much for the treaty. As far as this country is concerned, it does not rest merely on the treaty. I find that Lord Ashburton, who negotiated the treaty, on the 9th of August, 1842, wrote to Mr. Webster and told him—what all your lordships know—that, although the negotiators had agreed to this treaty, it could have no force against this country, except by the authority of Parliament, and therefore that the authority of Parliament must be obtained. Therefore, whatever terms the Parliament of this country imposed in the act by which they gave their assent to the treaty became part of the treaty and govern its execution. What does the act of Parliament which was passed in 1843 say? Your lordships will observe that the form was this, that Parliament had to give to the Executive of this country power, which otherwise the Executive would not possess, of handing over the persons who were surrendered. No secretary of state could issue a warrant or arrest any person in this country to be handed over to the United States, except by the authority of Parliament, and therefore Parliament had to ratify the treaty and give authority for this particular act to be done. What is the language in which Parliament gave this authority? This is the third section of the act, and it does not require a lawyer to construe it. It says:

"Upon the certificate of a justice of the peace that the supposed offender has been committed to gaol, it shall be lawful for one of Her Majesty's principal secretaries of state * * by warrant under his hand and seal to order the person so committed to be delivered to such person or persons as shall be authorized in the name of the United States to receive the person so committed and to convey such person to the territories of the said United States" (What for? To be tried for all offenses whatsoever? No, but) "to be tried for the crime of which such person shall be so accused."

That is the authority which Parliament has given to the secretary of state. Parliament has given no authority to any secretary of state to hand over any man within the asylum of this country to be tried for all offenses whatsoever. The authority, and the only authority given to Her Majesty's government is, after evidence given showing a *prima-facie* case of criminality as regards the particular offense, that of handing over a person to the United States to be tried for the crime of which such person shall be so accused. It is sometimes said that lawyers are given to special pleading. I am sorry to observe that the special pleading on this subject has not come from lawyers. I have seen it stated—and the argument of the noble lord the other night requires him to maintain this proposition—that because there are no negative words saying that he is not to be tried for any other offense, therefore he may be tried for any other offense. I should like to know, in regard to documents passing between man and man within this country, what would be thought of an argument like that. Suppose any one of your lordships handed over a sum of money to a trustee and told him it was handed to him that he might invest it in a particular security—consols. If the trustee said, "You told me I was to invest the money in consuls, but you did not say I was to invest it in nothing else. If I have invested the money in consuls I can then invest it in any other securities I please." What, I ask, would be thought of that doctrine? ("Hear, hear," and a laugh.)

The words here are clear. The person is surrendered by the act of Parliament to be tried for the offense of which he is accused, and, so far as he is concerned, our duty is to protest against his being tried for any other offense. But, my lords, I may go further, and refer to the circumstances under which the act of 1843 was passed. The act was not passed through Parliament in silence; it was fully debated in both houses at the time. Those were the times when the members of the great liberal party were peculiarly sensitive about the liberties of those who had received the hospitality of this country; and they were careful that no power was given or should be exercised which might unduly endanger those liberties. I have read the speech of Lord Macauley on the subject, which is contained in the reports of the proceedings of the other house of Parliament, and also that which was delivered by Lord Aberdeen in this house, both of which were directed against the criticisms to which the measure had been subjected. At that time slavery was an institution of the United States, and great apprehension was felt here that persons might be surrendered here for offenses mentioned in the treaty, and be subsequently tried in America for offenses connected with their *status* as slaves, and those who were defending the treaty in both houses of Parliament took one by one the offenses for which persons were to be surrendered, and asserted that none of them would allow any person to be put on his trial for an offense committed as a slave. But, my lords, if Lord Aberdeen in this house, and Sir R. Peel in the other, had adopted the construction placed upon the treaty of the noble earl, they would have said, "It is no use embarrassing yourselves about the effect of the particular offenses named in the treaty, because we candidly tell you that if once a man is surrendered under the treaty, he can be tried for any offense whatever, whether arising out of his *status* as a slave or not." My lords, had any minister made such a statement as that in either house of Parliament in 1843, do your lordships supppose that this treaty would ever have received the assent of Parliament? (Cheers.) But there is another matter which is of considerable importance in considering this case. The other night the noble earl

objected to any reference being made to the American act of Congress passed in 1848, stating that the Americans themselves were the proper judges of the construction to be put upon their own act. That view might, perhaps, be open to criticism, inasmuch as the act of Congress is practically a transcript of the English act, and may fairly be taken to have the same meaning. I will not, however, enter into any debatable ground upon this question which I can avoid, and therefore I will pass over the point as to what construction should be placed upon the act of Congress. I must, however, refer to an American document which becomes of the utmost importance when we are construing the meaning to be placed upon the treaty. I will ask your lordships to allow me to read the warrant under which the United States surrender a prisoner to us. It is to be found in pages 69 and 70 of the papers which have been laid before the House. This is the document which accompanies the prisoner when we receive him from the United States, and it contains the instructions which tell us what we are to do with him. The document is a very important one, and seems to my mind to be almost conclusive of the case. It is as follows:

"Now, therefore, pursuant to the provisions of section 5272 of the Revised Statutes of the United States, these presents are to require the United States marshal for the eastern district of New York, or any other public officer or person having charge or custody of the aforesaid James Bowen, *alias* William Miller, to surrender and deliver him up to Adam Bligh, a constable of the united counties of Stormont, Dundas, and Glengarry, Canada, who has been authorized, in the name and on behalf of the British government, by Her Majesty's minister at this capital, to receive him, or to any other person or persons who may in like manner be authorized, in the name or on behalf of the said government, to receive the said James Bowen, *alias* William Miller, to be tried for the crime of which he is accused."

Therefore, we have on the one hand the British Parliament authorizing the secretary of state to hand over the person to be surrendered from this country to be tried in the United States for the crime of which he is accused, and we have on the other the Government of the United States issuing their warrant for the handing over to the officer authorized by Her Majesty to receive him in the United States a prisoner to be tried for the crime of which he is accused. Both countries, therefore, use the same words, which can only fairly admit of one interpretation. [Cheers.] So much, therefore, for the general principles which regulate the system of extradition and for the documents which pass between the two countries, and which constitute the means by which it is carried into effect. The noble earl referred to a great many cases which have occurred since 1842, and said that he had got the evidence of public men and the evidence of witnesses which would show that the meaning which had always been placed upon the treaty was different to that for which we contend. I can very shortly, indeed, put your lordships in possession of all that appears to me to be material with regard to the cases that have occurred. By far the greater number of the cases cited by the noble earl I put aside altogether as irrelevant. In that class of cases to which I refer, the prisoners who had been surrendered on one charge, and who were being tried upon another, themselves attempted to raise the defense that they could not be tried for an offense different from that for which they had been surrendered. Such cases certainly have no application whatever to the present question, because nothing can be more clear than that a prisoner himself has no right to raise such a defense. Even in France, where, as I have shown your lordships, the law and the practice of extradition goes far beyond that which prevails in this country and in the United States, a prisoner is not permitted to set up such a defense, for the clear reason that he is within the jurisdiction of the court, which has the authority to try him for the offense of which he is charged, and that whether he ought to be tried for an offense other than that for which he has been surrendered is a matter of diplomacy between the two countries, and not of question between the prisoner and the court before which he is being tried.

That circumstance, therefore, disposes of by far the larger number of cases referred to by the noble earl and by Mr. Fish. The cases really in point are only three in number. One is that of Hielbronn, in which, if the government of this country had ever known and had approved what was done, it would not have been very creditable to this country. I will tell your lordships what happened in that case. Heilbron was a man who was brought up in New York under a proceeding of extradition for the purpose of being sent home to this country in order to be tried here. He was charged in New York with robbery, and he grounded his defense upon the circumstance that the facts proved disclosed not robbery but embezzlement, which was not an offense for which he could be surrendered under the treaty. The commissioner, before whom the case was heard, decided that the offense of which he was charged was robbery, and the man was surrendered and was sent over to this country for trial, and I may mention that the prosecution was conducted not by the Crown, but privately. When he was tried here this actually occurred: the judge at once said that the facts showed that the offense committed was embezzlement and not robbery, and the man was tried and sentenced for the former offense, for which he ought not to have been surrendered under

the terms of the treaty. That would not have been very creditable to the government if they had ever heard of it; but the government never did hear of it. It was never brought under their notice at the time of the prosecution, or until it was mentioned in the committee of the other house in 1868. That was the case of Hielbronn. The other two cases were the cases of Burley and Caldwell. As to these cases, it appears that the law-officers of the day were consulted, and no person can speak with greater respect than I do of the law-officers at these two particular dates. But I am bound to say that I should have liked to see the reasons assigned by the law-officers for the opinions said to have been given by them, and I should have liked to know whether the attention of the law-officers was called to the principles of extradition to which I have referred, as well as to the other documents I have mentioned. Even if I were unable to agree with what appears to have been the opinion of the law-officers of the Crown, if the result had been communicated to the American Government, and they had been told, "These are the principles upon which the British government acted," I could understand the argument *ad hominem*, now urged on behalf of the American Government—that this country should not depart from the solemn determination then arrived at. But, so far from that being the case, the American Government were never informed of the views said to have been entertained by the law-officers of the Crown; and, moreover, in the outset of the late correspondence with the American Government those two cases were not referred to at all. The case of Burley was a singular one. It occurred in 1865. Burley had been surrendered to the United States from Canada for robbery. His friends in this country apprehended that he was going to be tried for piracy, and they appealed to the foreign office, asking that Her Majesty's government would so far exert their good offices on his behalf as to secure "that he may not be tried on any other charge than that on which the claim was made for his extradition." The foreign office thereupon answered the appeal, which was made by the honorable member for Glasgow, Mr. Dalglish, who was told that Lord Russell had addressed to Her Majesty's representative at Washington such instructions as the case admits of. Now observe what were the instructions sent to our chargé d'affaires, and what was the communication made by him to the American minister? This is the instruction sent to Mr. Burnley, then our chargé d'affaires:

"I have to state to you that, having considered this application in communication with the proper law-advisers of the Crown, Her Majesty's government are of opinion that if the United States Government, having obtained the extradition of Burley on the charge of robbery, do not put him on his trial upon this charge, but upon another, viz, piracy, (which, if it had been made before the Canadian authorities, they might have held not sufficiently established to warrant his extradition,) this would be a breach of good faith against which Her Majesty's government might justly remonstrate. If, however, the United States Government does *bona fide* put Burley on his trial for the offense in respect to which he was given up, it seems to Her Majesty's government that it would be difficult to question the right of that Government to put him upon his trial for piracy also, or any other offense which he may be accused of having committed within their territory, whether such an offense was or was not a ground of extradition, or even within the treaty."

This is a large view, and one with which I cannot concur. But now let us see what was the communication to Mr. Seward, founded upon this dispatch. Mr. Burnley wrote to Mr. Seward:

"Her Majesty's government, having considered this application, are of opinion that if the United States Government, having obtained the extradition on the charge of robbery, do not put him on his trial upon this charge, but upon another, viz, piracy, (which, if it had been made before the Canadian authorities, they might have held not sufficiently established to warrant his extradition,) this would be a breach of good faith against which Her Majesty's government might justly remonstrate. Her Majesty's government are, therefore, willing, should the grounds upon which Burley is to be tried take the above turn, to comply so far with the application of Mr. Burley, sr., as to instruct me to protest against any attempt to change the ground of accusation upon which Burley was surrendered in pursuance of the treaty."

Now if I had been Mr. Seward, receiving this dispatch, without knowing what was behind, I should have said, "This is an expostulation with me against allowing a man to be tried for any offense but that on which he was surrendered." Mr. Seward, in fact, did so understand it, and thus replied:

"The honorable the Attorney-General informs me that it is his purpose to bring the offender to trial in the courts of the States of Ohio and Michigan for the crimes committed by him against the municipal laws of those States, namely, robbery and assault, with intent to commit murder. He was delivered up by the Canadian authorities upon a requisition which was based upon charges of those crimes, and also upon a charge of piracy," (this, I believe, was a mistake.) "which is triable, not by State courts, but by the courts of the United States. I am not prepared to admit the principle claimed in the protest of Her Majesty's government, that the offender could not legally be tried for the crime of piracy under the circumstances of the case." (Mr. Seward thus shows

that he considers it a protest against the principle of trying a prisoner for any other crime than that upon which he has been surrendered.) "Nevertheless, the question raised upon it has become an abstraction, as it is at present the purpose of the Government to bring him to trial for the crimes against municipal law only." [Hear, hear.]

These are the crimes upon which Mr. Seward says Burley was surrendered; and therefore, says Mr. Seward, I do not admit your protest, which I believe to be a protest against trying a man for any different crime from that for which he has been surrendered; but the point is now an abstraction, for we do not mean to do so. [Hear, hear.] That is the case of Burley. The case of Caldwell is a lesson to us as to the caution which should be exercised by the government in these matters. Caldwell was handed over from Canada to the United States in 1871, and was surrendered for forgery. He appealed to the Canadian government, and through them to the home government, upon this ground—that he was going to be tried for a different offense, namely, bribing an officer of customs. Now, it is quite true that in 1871—I do not know for what reason; possibly because there were then many other matters in controversy with the United States, and it was not thought desirable to add to the number—there is a dispatch from the colonial office stating that there does not seem to be any ground for interference. Lord Kimberley adds:

"Her Majesty's government are further advised that there is nothing in the convention which would preclude the indictment of the petitioner in the United States for an additional offense which is not enumerated in the convention, so long as such proceedings were not substituted for proceedings against him on the charge by reason of which he was surrendered."

What happened? The case is cited in a book which Mr. Fish says is of great authority, "Clark on Extradition," and, as I say, is a lesson to us of the results of laxity in these matters. Caldwell never was tried for the offense for which he was surrendered, and he was tried for the offense of bribing an officer of customs. My lords, I think that the less said about the case of Caldwell the better. [Hear, hear.] This disposes of all the cases which it is necessary to notice. I now come to what the noble earl calls the declarations made by public men upon this subject. I heard what was said in the House of Commons in 1866 by my noble friend the then secretary for foreign affairs, being myself at that time attorney-general; and I only mention the fact now for the purpose of showing that in 1866, and after the case of Burley had occurred, whatever the construction put upon it, a distinct and clear declaration was made in the face of the country in the other house of Parliament of what the foreign office conceived to be the position of the extradition question as regards the trial for criminal offenses. The noble earl says the words used on that occasion were words used in the heat of debate. Nothing can be more inaccurate. There was no heat of debate. What occurred was this: A bill was passing through the other house on the subject of extradition. It was earnestly criticised, and an amendment was moved requiring that, before any person was given up, the country to which he was surrendered should be asked for an assurance that he should not be tried for any other offense except that for which he was surrendered. My noble friend (Lord Derby) objected to that amendment. We said to the House of Commons, "In the first place, if it is included in the treaty, it is not necessary to take a pledge from the other country on the subject, and in the second place, as we understand the law, this country would have a right to complain of any other country which, after a prisoner had been surrendered, should try that prisoner for any offense other than that for which he was surrendered." This is what my noble friend said, as the head of the foreign office at that time, and speaking in his position of secretary of state:

"As for the proposal that the French government should be required to enter into an undertaking that they would not try any person for any offense other than that for which he had been given up, he thought that that would be a very feeble protection indeed; for, assuming for the sake of argument that the French could act in the manner suggested—and he really begged pardon for assuming it, even for that purpose—he could only say that a power which could act in such a manner would not be bound by an undertaking of the kind proposed."

What I said as attorney-general was that "With respect to the latter part of the honorable member's amendment, which required that the person should not be tried for any offense but that for which he had been given up, we should certainly have a well-founded complaint against any country that demanded a man to be given up for one offense and then proceeded to try and punish him for another." (Hear, hear.)

So much, my lords, for the declaration which was made in the face of the Parliament of this country, and acted upon in 1866 in the other house of Parliament, where the amendment was withdrawn in consequence of that declaration. The papers with regard to Burley and Caldwell were not exhibited to Parliament, but this was a declaration made in the face of Parliament, and about which there could be no mistake. The opinion of the late Sir Thomas Henry, whose loss we all deplore, was clear that the course taken by Her Majesty's government was the course required by the practice and by the documents in the case. The next authority the noble earl refers to is Mr

Mullens, who is described by Mr. Fish as the solicitor-general for England. (A laugh. That, of course, is a mistake; but at all events Mr. Mullens is a most respectable solicitor. And what is his opinion as to the propriety of trying prisoners for offenses other than those for which they were given up? Sir Robert Collier asked him this question: "Supposing a man is given up, is it your opinion that he should not be triable for any quite different offense, or that he should only be tried for that offense, and then sent back again, at all events, and not put upon his trial for any other?"

Mr. Mullens replied: "I think he should only be triable for the offense named in the extradition warrant, or for any other offense named in the treaty arising out of the same facts."

That is a very different thing from what is contended for now. (Hear, hear.) Sir R. Collier next asked, "Assuming this case, that a man has committed murder in this country and afterward larceny, and escapes to France, and that he is sent over here and tried for larceny; and assuming that he is acquitted on that charge, are we to let him go, or are we to try him for murder, as we have him here?"

Mr. Mullens answered, "I think we should not let him go, but we should get the consent of the government which gave him up before we tried him for murder."

Who is the next authority appealed to by the noble earl? Lord Hammond, of whom I desire to speak with the greatest respect, and who was then under-secretary for foreign affairs, came to be examined on the matter, and he appears to have given evidence which was very far indeed from being in favor of the view taken by the noble earl. Indeed, his evidence was very remarkable. He was asked on the first day of his examination whether he had any recollection of the demands made in respect to trials for different crimes, and he said:

"I cannot remember any. There was a case, but I do not think that it was a case of murder, connected with the Canadian troubles. A man fled to Canada, and the question was whether the man should be given up; and the further question then arose whether, if he was given up, he should be triable for any other offense. I think that it was ruled that if he was *bona fide* tried for the crime for which he was given up, he might be tried for another offense afterward."

Then he was asked, "Have you any record or minute of the particulars of this case you are now alluding to?" He replied, "I should think that probably the law officers' opinion was taken upon it, but that could not be given to the committee."

The witness added that he would see whether he could get any particulars of that case. On the second day of his examination Mr. Hammond said the case was that of Burley, and he described just as I have done this evening how that case arose.

He was asked, "Do you mention this case to show that a man can possibly be tried for another offense than that for which he was given up? I think the questions led to that point. But does this case decide the point either one way or the other? No; only that we admit in this country that if a man is *bona fide* tried for the offense for which he was given up, there is nothing to prevent his being subsequently tried for another offense, either antecedently committed or not. Did we make any demand upon the American Government after we had learned that the man had been acquitted upon the first charge? The man was not actually acquitted, because the jury disagreed and he was held over for trial another time. Then we never made any further inquiry about him? No."

Mr. Hammond also said it would be very troublesome, if, supposing a man were given up under an extradition treaty, we were to instruct our minister at the court of the country to which he was given up to keep his eye upon the case, and to ascertain what became of the man. And then came this remarkable answer, which I suppose expresses Lord Hammond's own opinion on the subject. After remarking that there is nothing in our treaties to prevent a man being given up even for political offenses, he said:

"In dealing with foreign nations, we can only go by our treaty relations. If you ask me what is my own feeling on the subject, I should say it would be a great breach of faith and morality on the part of a foreign government if, after having tried a man for the offense for which he was given up and having failed in convicting him of that offense, they should then put him upon his trial for a political offense, knowing well that if we had been aware that there was a political charge in the background we should never have given him up." (Hear, hear.)

Let me, now, substitute for "political offense" any offense which is not the subject of extradition. Would not a foreign government know perfectly well that if we had been asked to give up a man for another offense we should not have done so, and does not Lord Hammond's reasoning, therefore, apply just as much to such an offense as it does to a political offense? (Hear, hear.) I have, I trust, satisfied your lordships that on the general principles of extradition and on the wording of our treaty of the act of Parliament of 1843, and of the American warrant, the course laid down for the Government was a clear and distinct one, and that we could not have taken any other course. And now let me say a few words about political offenses. In the treaty with the United States of America there is not a word about political offenses. If the noble lord's construction be the right one, and if a person handed over can be

tried for any other offense besides that for which he was handed over, there is nothing in the treaty which prevents his being tried for a political offense. I heard with great interest and some surprise the argument of Earl Grey on this subject the other night. Earl Grey was very bold indeed. He said people in this country are far too thin-skinned in regard to political offenses; that political offenses were very serious things, and that the men who committed them ought to be given up just like other offenders. Further the noble earl said that if this were not the view of the people of this country, they ought to be taught not to regard political offenses as they do now. I know the boldness of the noble earl, and I am sure that if any one is competent to instruct public opinion on this subject it is himself. But I do not wish him to be successful, and I should be very much surprised if he were successful. (Hear, hear.) I believe the people of England have perfectly made up their mind on this subject. I believe they will not consent to deliver up persons for political offenses. (Hear, hear.) Whatever may be the form of treaty or act of Parliament, they will take care that no persons are delivered up for political offenses. But if the construction contended for by the United States and by the noble earl be correct, we have no security whatever against the surrender of political offenders under this treaty. (Hear, hear.) If it is in the power of another country, after trying a prisoner for the offense for which he was surrendered, to try him for another offense, that other offense might involve political considerations. There are two principles which are perfectly clear. The first is that no man shall be surrendered for a political offense; the other is, that this country itself shall be the judge whether an offense is political or not. (Cheers.) Even inside of our own country, differences of opinion on that point constantly arise, and some persons think an offense is political which others do not regard as such. This is, at all events, a point which we will not leave to the judgment of another country. We must judge of it ourselves, and we cannot do so unless we know what is the offense or what are the offenses for which the surrendered criminal is to be tried. (Hear.) My lords, what security did the minister of the United States wish for in this matter? Mr. Fish says that he never desired to have a criminal surrendered for a political offense, but in the very same dispatch in which he says so, he tells us that as to all offenses against the law of the States as distinguished from Federal offenses, the Government of the United States—with which, observe, alone we have the power of communicating—is powerless. They cannot control the prosecution in such cases; they cannot order it to be suspended; nay, more, if a man be convicted the President of the United States cannot pardon him. The security of which Mr. Fish speaks is, therefore, no security at all. But I would appeal from Mr. Fish to President Tyler, who says, in effect, "Here is the article in the treaty; scan it over. In the careful enumeration of crimes which you see there, the object has been to exclude all political offenses." (Hear, hear.) I wish in the next place, my lords, to say a word as to a misapprehension which has arisen with respect to the act of 1870. I have not up to this moment said a word about that act; but I must now venture to correct what fell from the noble earl who brought forward this subject on that point. The noble earl said that we at first relied upon the act of 1870, and that then we gave it up. But we have not given it up; and I wish it to be distinctly understood, so far as the government are concerned, that we are disposed to agree entirely with the view of the United States Government, that an act of Parliament passed in this country in 1870 cannot alter the terms of a treaty made in 1842. But the act might, whether by oversight or not, have imposed shackles and impediments on the executive of a country in dealing with a prisoner whose surrender was demanded. Whether it has that effect or not it is difficult to say, because that depends upon the construction of a clause which I am bound to tell your lordships honestly, after the best consideration I could give it, is absolutely and utterly unintelligible to my mind. ("Hear," and a laugh.) I may add that upon the only occasion when it came under the notice of one of our courts of law—the Court of Queen's Bench—all the judges of that court said they thought it was very doubtful what the act meant, and recommended that it should on the earliest possible occasion be set right by the legislature. It imposes in its present shape upon any government a very great difficulty, because if a government were to hand over a prisoner without taking those assurances which the act requires, he might, for all I know, obtain his *habeas corpus* and be set at liberty. That is the purpose for which we referred to the act of 1870. It is quite immaterial as regards the broader and higher ground of what our obligations are under the document of 1842. I will now say a word as to the policy of raising this question, as the government have felt themselves obliged to raise it at the present time. The noble earl said the other night that if we had let things go on, the great probability was that Lawrence would never have been tried for any other offense than that for which he was surrendered, and that we ought to have waited for some other occasion when, if it were attempted to try a prisoner for a different offense, we might have objected to the adoption of such a course. Well, it was no doubt open to the government to act in that way; but I think I can show your lordships that we were entirely justified in acting as we have done. Lawrence was in the United States handed over on a charge of forgery. There was an indictment found against him for some

offense—I think against the revenue laws—which was not the subject of extradition. There was, therefore, a distinct and clear announcement on the part of the United States, that it was intended to proceed against Lawrence for the two offenses. Now, we were able to say that, although we could not agree with the Government of the United States in the construction which they put upon the treaty, we believed them to be perfectly sincere in contending that that was the view which they had always entertained, and that although we differed from them we were not prepared to make any serious demand upon them with regard to Lawrence. But how, my lords, would the matter stand on another occasion? Suppose we had gone on surrendering prisoner after prisoner to the United States, and that on some other occasion, perhaps with regard to some offense which excited more interest in this country, the United States had pursued the same course, and proposed to try a criminal for a different offense from that for which he had been surrendered. Suppose the demand then made which has been made now, the United States Government would turn round and say to us, "You knew perfectly well what our view of the treaty was. We told you months ago, and with full notice you have gone on surrendering prisoners; we had, therefore, a right to assume that you were satisfied with the attitude which we had taken in the matter." Now, my lords, if there be one course more than another which would be likely to land us in complications and embarrassments, it would be to leave open a sore of that kind to be dealt with on some future occasion in the case of some criminal with regard to whom a greater amount of public interest might have been aroused. (Hear, hear.) I should very much deprecate the discussion of a question of this importance with reference to the merits or demerits of any particular person whose surrender might be asked for by the United States. (Hear, hear.) The noble earl spoke the other night of those men as murderers, robbers, and rogues, and for all I know they may be what he describes them to be, although the tenderness of our law assumes that a person is innocent until he is proved to be guilty. But be that as it may, I can conceive nothing more dangerous than to bring down a great and important principle to the level of the merits or demerits of the individual in whose case that principle is brought in question. (Hear, hear.) That is not the way in which we act in this country with regard to our criminal law, on the great principles of which, and on the cardinal rules of evidence, we all depend for our lives and liberties. If in a particular case we were to overstrain or overthrow those great principles and those rules, the evil which we would have done would be sure to come back upon us in some great political prosecution, or some trial of a man against whom an unjust and violent prejudice happened to have arisen in the public mind. So it is with regard to this question of extradition. There are some words which fell on the subject from a great master of history, which are the words not only of a historian, but of a philosopher, and which I should like to read to your lordships. He says:

"We are ever too ready, when it is the redress of our own injuries that is in question, to strain and compromise those general laws to which we have all to look for protection in the time of our adversity; and thus, when the day of trial comes, we find those laws no longer in existence." These are words of warning which I think we should do well to lay to our hearts at a time when there is little political excitement. I have now laid before your lordships as concisely as I could the principles on which the government has acted; and I maintain that the obligations under which we acted not only justify the conduct which has been pursued, but rendered any other course of conduct absolutely impossible." (Loud cheers.)

Lord Selborne. My lords, there are some points about which there will be universal agreement, and one is that it is our duty to discuss this question with the most perfect dispassionateness, with the greatest possible desire to be fair and candid, and certainly with the remembrance that any triumph of mere logic or ingenious argument, even though it be successful for a time, cannot compensate for the mischief that may be done by the possible unsoundness of that argument. Your lordships must have observed that my noble friend who introduced the subject was careful to abstain from doing so in a tone or manner which could possibly bear the construction of a party attack, or indicate a desire to magnify the errors, if errors there were, of Her Majesty's government. I desire to imitate my noble friend in that respect; and at the outset I desire to make three acknowledgments to Her Majesty's government, and so far to place the correctness or incorrectness of the course they have pursued beyond the possible limits of a party attack. First, it is undoubtedly true, as has been stated by the noble and learned lord on the woolsack, that when this question came incidentally under discussion in the other house in 1866, both the noble earl opposite, then and now foreign secretary, and my noble friend on the woolsack expressed views, the full effect of which, as now explained by them, may possibly not have been obvious to all who heard them, but entirely consistent with the arguments on which they now rely, and, I have no doubt whatever, intended by them at the time to be substantially in accordance with the views they now express. Whether they are right or wrong in the view they take of the rights and obligations of this country under the treaty of 1842, no one is fairly entitled to call in question the consistency

of their present and former opinions, or to deny they were justified, whatever may be the different views taken by others, in acting upon the opinions which they expressed in 1866. The next point to be borne in mind in favor of the government is this; although undoubtedly the act of 1870 could not alter the provisions of the treaty, which it professed to respect and keep alive, and must, I think, be supposed to have intended to do so; on the other hand, so far as the future policy of this country is concerned, the act of 1870 did, in substance—as to the precise extent there is something to be said—point out to those who might afterward have the negotiation of an extradition treaty on behalf of this country that line of policy which Her Majesty's government had intended to pursue. Therefore, they were not only justified, but, so far as general policy is concerned, so far as any action intended to be independent of the treaty of 1842 is concerned, they were more than justified in acting upon the views and principles which Parliament had laid down as the general rule of the future. The third concession I desire to make to Her Majesty's government—and it is really important with reference to the position of this country—is that, the treaty of 1842 being terminable by either party at will and without notice, no question of a breach of international faith could fairly be raised, even if Her Majesty's government were wrong in the construction which they put upon that treaty, if they gave notice of what their construction was, in what sense they understood their obligation, and that they should not interpret the treaty in any other sense. In form, no doubt, that is not a declaration of their choice and will to put an end to the treaty; but, having the power to do so without previous notice, it is manifest that an intimation of that sort was to all intents and purposes equivalent to a conditional declaration of an intention to put an end to it if there were continued difference of opinion as to its construction. In that state of things, I think no question of good faith as between nation and nation can be involved in the course Her Majesty's government have taken, even if they have been wrong in the view they have taken of their obligation. I must take exception to two expressions used by my noble and learned friend. He spoke more than once of my noble friend (Earl Granville) having adopted the argument of the United States. It may be that the view we take is the same with that which has been taken by the United States, but I protest against it being said that we adopt the arguments of the United States. The arguments are our own, the interpretation that of the two governments to which we belonged, and that for which I am responsible as the principal law adviser of the Crown in 1865. It is our own view, our own interpretation we are justifying, and not the argument of the United States; and I venture to think it can be shown informally to have been the view of the British government, accepted by my noble friend and his colleagues in 1866, and during their present term of office. We may have been wrong, but believe ourselves to have been right, and, having acted *bona fide* when the former government took steps founded on our view, we had no option but to defend our own course, our own action, and our own opinions where they happen to be the same as those of the United States. With regard to the statement that our construction was that the country to which extradition was made was at liberty to try for any other offense, provided it "goes through the form" of trying for the first offense, my noble and learned friend will excuse me saying it is a piece of rhetoric hardly characterized by his usual candor, because, throughout the papers which express the views formally taken by the governments and throughout the arguments, it has always been said there must be a *bona-fide* trial upon the charge on which the man was delivered up, that being the test of the *bona fides* of the requisition; because, if he were not tried at all for the offense for which he was asked to be surrendered, it would be strong evidence that there was an indirect purpose in asking for the surrender on particular grounds. Therefore, a *bona-fide* trial for that particular offense will always be regarded on our side as involved naturally in the demand for extradition. I will now follow my noble and learned friend in his arguments. I confess it was with some surprise I heard him endeavor to lay the foundation for everything which was to follow, not in the terms of the treaty between the two powers, but in some vague notion of some *a priori* comity leading to the obligation of extradition independent of the treaty, importing silent clauses and expressions of jurists, on which he laid much stress. These arguments did not seem to be good enough to be worth producing in the correspondence laid on the table, and the able dispatch in which the arguments of Her Majesty's government are summed up, so far from parading the opinions of jurists and text-writers, disputes the propriety of introducing them. But if the argument developed from those writers has any really legitimate bearing on the question, it is not conceivable that my noble and learned friend or the law advisers of the Crown should not have discovered the passages he has just quoted in time for them to do duty not merely in your lordships' house, but in the important correspondence with the United States Government. My lords, I confess that for my part I have not been persuaded by my noble and learned friend's able speech to accept the views of those writers as in any degree affording a solution of this question. There is no such thing—certainly there never has been such a thing recognized in or by this country—as an *a priori* international obligation to

grant extradition to all. That depends with us entirely on treaties. The terms of those treaties must contain in themselves the whole measure of the obligation as between country and country. I am fully aware that even in the United States there are great writers—at least, as great as any of those quoted by my noble and learned friend—who maintain that there is a certain *a priori* right to grant extradition. But my noble friend did not refer to them, because he would not find in them anything in support of the view that it is an implied condition of extradition that a man should be tried only for the crime on which he has been surrendered. The real truth is, all those writers do but generalize from the laws of their own countries or particular treaties of their own or other countries which they collect in their books. That is more especially the case of Faelix with regard to France. Now, as to the law of France, my noble and learned friend stated very truly that in 1841 the minister of justice laid it down as a rule that a man was not to be tried for any offense but that on which he was given up, and he referred in illustration of this principle to a case which occurred between France and Geneva. But what is the bearing of all that on the question now before us, except that another great and civilized country has taken the same view of it as was taken by the British Parliament in the year 1870? In France extradition depends entirely on the absolute despotic action of the government. The executive government of France in 1841 laid down for its own guidance and the guidance of its executive officers a rule which has been laid down by this country in the act of 1870. How that bears upon our engagement of 1842 with the United States passes my comprehension. I will not, therefore, detain your lordships on this point. Not only, my lords, does the executive government in France possess an absolute power with respect to extradition, but the *cour de cassation* in 1867, at the instance of the then minister of justice, decided that the French courts had nothing to do with the rule laid down in the circular referred to, and I believe the minister of justice in that year did actually cause a man to be tried on an offense other than that on which he had been surrendered. I ought to apologize to your lordships for having detained you so long on the subject of the law and practice of France, because the question is not as to the law and practice of France, but as to the treaty between this country and the United States. My noble and learned friend said he did not know of any authority who expressed views different from those entertained by Her Majesty's government. My lords, we have a writer of very great learning who has collected a body of international law with perhaps more fullness than most others—a writer, I believe, to whom foreign jurists look with considerable respect—I mean Sir Robert Phillimore. I don't think my noble and learned friend would find it laid down in Sir Robert Phillimore's book as a principle of international law, with respect to extradition, that a man should not be tried for any offense but that on which he has been surrendered, though I believe he would find it to be a recognized principle of international usage that an extradited person should not be tried for a political offense. Now I come to what governs the whole matter, namely, the treaty of 1842. My noble and learned friend asked, if a man could be tried for any other offense than that on which he had been surrendered, why certain crimes were specified in the treaty, and a provision laid down that there should be *prima-facie* evidence according to British law that he was guilty of one of them. My noble and learned friend noticed that that list of offenses did not include embezzlement, manslaughter, rape, and abduction, and he challenged us to say why there should be that selection. He said it was not a sufficient reason to say that this was done to provide against arbitrary arrests, and then he went on to state his own view. Well, the specification of offenses is made because it is not consistent with the principle of extradition that a person should be given up except for a crime which has a common character in both countries. For that reason the practice has been to specify offenses as to which the jurisprudence of both countries agree, and as to the meaning of which, therefore, there should be no ambiguity. It is perfectly true that the specification of offenses does not go as far as it might do, but it goes as far as, in the treaty between the two parties, it is thought necessary or convenient to go in the direction of ascertaining what are the offenses which have a common designation and a common meaning under the laws of both countries. Then why does the English law require *prima-facie* evidence in the first instance as to the guilt of the man in respect to the crime for which his surrender is asked? Plainly because the crime is specified; because the same principles in both countries apply to it, though each country may have its own particular method of dealing with it. The provision as to *prima-facie* evidence cannot mean that British law is to govern for any other purpose than for determining the sufficiency of the case for giving up the man to American justice. When he gets to America he must, of course, be tried, not by British, but by American law, and, if found guilty, must undergo the punishment which American law provides. The sole purpose of applying the test of British law in this country is that, before we give the man up, we should have *prima-facie* evidence that he is guilty of one of the crimes specified in the treaty of extradition. We give him up, then, because we have confidence in the justice of the country which claims him, and if the conditions on which we give him up are fulfilled, I am utterly at a loss to understand why he should not

afterward be tried for any offense whatever—other than political—for which American law can try him. (Cheers.) Let us look at the abstract principle from the common-sense point of view, and it is very material to do so when the question is whether we are to interpolate what my noble and learned friend calls a silent clause, if the treaty does not express it. Of course if the *a priori* reason were so plain, so manifest, that no two sensible persons could differ about it, then I could understand the argument as to the interpolating of a silent clause. But that is not the case. I hope your lordships now present heard the speech made by the chief-justice of the court of common pleas when this question was last before the house. Putting political offenses aside, he appeared to me to show, in the most convincing manner, how contrary to the spirit of international justice it would be to fetter the demands of that justice by requiring that a man should be tried only for the precise offense for which he was given up. If you really place confidence in the justice of the country with which you make the treaty, what possible interest can the country which delivers a man up have in sheltering him from trial and punishment for any crime that he has committed? Have you any engagement with him to shelter him in that way? Certainly not. Your only engagement is that which you have with the country with which you have made the treaty. Are you to assume that he will be fairly tried for the crime for which you have surrendered him, but that he will not be fairly tried for any other? Surely not. The mode of examining, the mode of trial, the law of evidence, and the consequences of the crime may differ entirely in the two countries, but he is sent to be tried according to the law of the country to which he is given up, not according to ours. But it is said that if he is acquitted the inference then is that if the facts which come out in evidence had been brought before the magistrate of the country which surrenders him he would not have been surrendered, and the country to which he is sent would avail themselves of their own wrong if they tried him for another offense. That, however, is an argument which puts aside the substance in dealing with the form of the matter. Take the case of murder and manslaughter. Murder is the greater, manslaughter the less offense. I rather think that by our present law, even if the indictment brought against a man is for murder alone, he may be found guilty of manslaughter upon the very same evidence, because the latter offense is less than the former, and the jury may take a merciful view of the facts. Can it be said that this country has an interest in protecting a man who has been delivered up for murder from being convicted for manslaughter, when under a more merciful view of the evidence adduced to convict him of murder the offense is reduced to the lower crime? Surely, if the man is handed over by us on sufficient grounds, we have no interest in fettering the action of justice. Take the case of extradition crimes only. Supposing a man is accused in America of all the seven offenses mentioned in the treaty, would you actually impose on the United States the burden of sending over to England all the voluminous proofs of the various offenses of which it might be necessary to accuse him? And all this not because it is supposed that they have some sinister end in view, or a desire to do that particular man a wrong, but because you say we have a right to his not being convicted of any offense other than that as to which we have seen the evidence. If the case of political offenders were put out of sight, surely it would be conducive to the interests and the objects sought by all extradition treaties that where sufficient evidence is produced to justify the surrender of a criminal, he should be tried in the country to which he goes upon any criminal charge that might be brought against him. That view is, I hold, not so manifestly wrong or unreasonable that you should impose a silent obligation which is not expressed in this particular treaty. The treaty is as far as anything in the world can be from implying any such thing. It says that the two countries agree that on mutual requisitions made by them or their ministers they will respectively deliver up to justice all persons who, being charged with any one of these offenses committed in the jurisdiction of the other, shall seek an asylum in the territories of the other. The noble lord, the foreign secretary, held that the person surrendered was only lent to the foreign government for the purposes of that surrender, to be tried for a particular offense. The persons who negotiated the treaty of 1842, and the minister who introduced the act of 1843, were utterly ignorant of that theory. Nay, more, a contrary theory was distinctly expressed and recognized, and the only question that was then seriously discussed was the bearing of the treaty on the subject of slavery. With your lordships' permission, I will trouble you with a few extracts from the debates of the House of Commons, when the act of 1848 was under discussion. Referring to the case of a slave who had come within our jurisdiction, Mr. Vernon Smith said:

"Supposing he was really guilty of some crime, was he, when taken back, to be treated as a slave or a freeman? The conditions of trial were very different, and so were the punishments of slaves and freemen. In the case likewise of a slave committed by a magistrate unjustly (and he supposed magistrates in the colonies were not wiser than anywhere else) and afterward acquitted, what became of him? All the vindictive feelings of the owner might be exasperated against him on account of his flight, and he might be inclined to wreak his vengeance upon him when thus restored to his possession."

Was that met by the attorney-general of that day by the argument that the man only went back to the United States to be tried for the particular crime for which he had been given up, and that if he was acquitted there was an implied obligation that there should be an opportunity for his returning to our jurisdiction? Sir F. Pollock the attorney-general, then answered:

"We had nothing whatever to do with the circumstance of the person delivered up being a slave or a freeman. We should deliver him up as a criminal. * * * All that we insist upon is that before any man shall be delivered up to the Americans he shall be charged with one of the crimes mentioned in the treaty. If that were done we did not care whether the man had been a slave or not. * * * The magistrates would have to deal with a man charged with having committed an offense in a foreign state, and his status in that state had nothing to do with the case. That was a point to be settled on the man's return to America."

Lord Macaulay was not satisfied with this answer. He thought this made matters worse, and he would rather give up the bill, and he asked:

"Suppose the man was acquitted in America, what was to be done with him then? Was he to remain a slave in the hands of a master incensed by the attempt to run away? Would the slave's life in such a case be safe, even after his acquittal?"

The late Lord Derby, then Lord Stanley, replied to that thus:

"No doubt it was possible that persons, whether guilty or not, if sent back to a country where slavery prevailed, might be returned to a state of slavery."

That was the language of the Lord Stanley of that day, and there was no man in this country who was more opposed to slavery, or who would have been more ready to take steps to rescue a man from slavery than he was. I have referred to these passages to show that the idea that a man could only be tried for the offense for which he was surrendered under the treaty of extradition was not then entertained by the British government. The noble and learned lord on the woolsack has said that the act of 1843 contained words to the effect that a man should be surrendered for the purpose of being tried for the crime of which he was accused, and I admit that that is the language of the act. But the noble and learned lord goes on to say that a man cannot be tried in one country under a warrant directed to another country, and that trust-funds cannot be invested in one security when it is directed that they shall be invested in another. I maintain that those cases have no application whatever to the present question. It is true that a man cannot be tried in one country under a warrant directed to another country, but that does not prohibit a second warrant directed to the first country from being issued, and it is not because trust-funds are directed to be invested in a particular class of security that a subsequent order may not be made directing them to be invested in other securities. There is, therefore, no analogy at all between those cases and the point now at issue. What have such cases to do with the power of a country to whose justice a man has been surrendered to try him for any offense he may have committed, according to their own law. I, therefore, demur entirely to the proposition that because an English act of Parliament and an American act of Congress state that a man is to be delivered up to be tried for a particular offense, that therefore he cannot be tried for any other. To show that in trying him for any other offense a breach of faith under the terms of the treaty would be committed, we must do something more than put forward the words contained in the English act of Parliament. In my opinion, we ought to treat with some respect the construction which has been put upon the treaty by the American courts of justice. The words to which the noble and learned lord refers have been the subject of judicial interpretation in the American courts, as appears from the papers, and those courts, having before them the terms of the British and American acts, of the treaty, and of the warrants, have held that the language used in them does not bear the construction the noble and learned lord seeks to put upon it, and their decision had been confirmed by the Canadian courts. But the matter does not stand there, because if these words have the force and the importance which the noble and learned lord attributes to them, how is it that they were omitted in the treaty with Denmark in 1856? The next step brings us to a matter to which the noble and learned lord made no reference whatever, but the importance of which was pointed out by the noble earl near me. I refer to the terms of the convention made with France in 1853. Those terms showed that there was no objection whatever on the part of the British government to a man being tried for any extradition crime other than that for which he had been surrendered, notwithstanding he had been tried and acquitted of the offense for which he had been delivered up. The words of the seventh section of the convention are:

"No accused person to be proceeded against or punished on account of any political offense committed prior to his being surrendered, nor for any offense not described in the present convention, which he may have committed previously to being surrendered."

On which Mr. Clarke observes:

"It will be observed that under this convention a person who had been surrendered could have been tried for other offenses than that for which his rendition has been

granted, provided that such offenses were not political, and were within the list of crimes contained in the convention."

It must be remembered that at that period Parliament was very jealous of any concession on such a subject as this being made to France, a circumstance that made it at all events very difficult to arrive at any agreement on the question of extradition. The convention failed, but on other grounds than the terms of the section which I have just read to your lordships, and I merely refer to them to show what was the understanding of the British government on the point at that time. But I now come to the case of Burley, in which the British government had every possible motive for raising in favor of the prisoner the point now taken by the noble and learned lord. At this distance of time I am not committing any indiscretion in laying before your lordships the views which were then held by the British government in reference to that case. Burley was charged in Canada, under the extradition treaty, with robbery and with assault with intent to commit murder. The Canadian judges held that they were bound to surrender him on the charge of robbery, which had been committed at Johnston's Island, a portion of the United States to which the war had not up to that time penetrated. The home government, however, did not approve the decision of the Canadian judges, and thought that the man ought not to have been surrendered, and, moreover, they were afraid that the man would be treated as a political offender. They, therefore, would have been most anxious to raise the point that the man could only be tried for the offense for which he had been surrendered had they felt that the terms of the treaty would have enabled them to do so. It was my duty, as one of the law officers of the Crown, to advise the government on the matter, but I and my colleagues were satisfied that the treaty would not bear the interpretation the noble and learned lord now desires to put upon it, and we were unable to interfere in the matter. That case, therefore, was beyond all doubt an instance where the British government expressly placed an interpretation upon the treaty directly the contrary to that of the noble and learned lord. My noble friend says that in 1866 his opinion had been stated in Parliament. True, but in 1868, before the committee of the House of Commons, evidence was given as to the view upon which the foreign office had then acted, and this evidence was laid before Parliament and published to the world. The result of the committee's deliberation was strongly against the view now taken by Her Majesty's government. The committee did not say, "We find the existing treaty, in accordance with the view of all civilized nations, has a tacit clause which provides that a man when surrendered shall only be tried for the offense on which he has been surrendered," but they propose that in future treaties there should be an express agreement to this effect. This is strong evidence that the committee did not think it was already provided for in all the treaties. It is clear, too, that this was not then the understanding of the foreign office, and Mr. Mullens, to whom Sir Thomas Henry referred as the solicitor who knew most upon this subject, said the existing understanding was quite the other way. Mr. Stuart Mill asked this question: "As I understand it, the treaty with America will not prevent a man from being tried for another offense?" And the answer of Mr. Mullens was: "It will not. There is no stipulation that he shall not be tried for any other offense." It is clear that, according to the whole evidence, no such obligation was understood to exist, as it was not expressed, and accordingly the committee recommended that it should be expressed in all future engagements. The third clause of the treaty of 1870, therefore, provides—and I will read the words, to which sufficient attention has hardly been given:

"Unless provision is made by the law of that state or by arrangement that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offense committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded."

And the corresponding clause 19, expressing the obligation which we take upon ourselves, is in these words:

"Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this act, is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offense committed prior to the surrender in any part of Her Majesty's dominions, other than such of the said crimes as may be proved by the facts on which the surrender is grounded."

It appears highly probable, therefore, that in this country a man might be tried under the extradition treaty for a different crime from that upon which he had been given up, provided it was one of the enumerated crimes on the act of 1870, and provided it was proved by the facts in which the surrender was grounded. I confess also that I think those who prepared these two clauses had a little more reason than is contained in the argument we have heard on this occasion. A further and material part of the case is contained in the last section of the act of 1870, which provides that "this act, with the exception of anything contained in it which is inconsistent with the treaties

referred to in the repealed acts"—that is, the American, the French, and the Danish treaties—"shall apply for the purpose of the execution of these treaties." Now, the legislature must have meant something by this clause. "Inconsistent with the existing treaties?" But, according to the argument of my noble and learned friend, there was nothing in the act inconsistent with the existing treaties. Why, then, was this clause inserted? According to our view, they were new conditions, and if these conditions were really in the existing treaties, then the exception introduced into the act was perfectly idle and useless. There appears to be strong evidence that Parliament knew it was laying down a new law and was imposing new conditions for the future. It knew that these conditions could not be imported into existing treaties; it did not wish that these treaties should be put an end to; it provided new machinery for the purpose of these treaties; and, in point of fact, there has not been the smallest difficulty in applying, for the purpose of the surrender of criminals under the treaty of 1843, the judicial machinery of the act of 1870. It is rather singular that my noble and learned friend should have taken no notice of the note in Mr. E. Clark's book on Bouvier's case. Mr. Clark is a lawyer of considerable experience, who has been engaged in several of these extradition cases, and in his book is collected the whole history of extradition. His note is as follows:

"It is curious that this point has not yet been in any case under the American treaty. It is quite clear that neither that treaty nor the law of the United States contains the provision required by the extradition act, 1870. The question is a very important one, and deserves to be fully argued. Nor can the case of Bouvier be accepted as conclusive, even with regard to France. The point may be raised again upon more satisfactory affidavits as to the law of France than were before the court in that case."

To Mr. Clark, therefore, it seemed clear that this was a new rule in the act of 1870, operative as to future treaties, but expressly excepted as to existing treaties. Those who advised the government in a different sense from that of the argument of my noble and learned friend are certainly justified, in my opinion, upon every principle applicable to the construction of written instruments; and but for the political argument as to political offenders, I should say with confidence that the common sense of the matter is entirely against the view of the government. But I admit there is a good deal to be said in favor of the argument as to policy in the case of political offenders. This may or may not be a sufficient reason for adhering to the policy of the act of 1870. It may or may not be a sufficient reason for doing that which the legislature were not prepared to urge upon the government in 1870, namely, put an end to the American, French, and Danish treaties. But it cannot have the effect of interpolating into these treaties, by reason of that ulterior consequence, conditions which are not there. Nor, indeed, so far as the understanding of the two countries is concerned, was it necessary to do so, because the United States admit as fully as we do, not that there is in the words of the treaty an implied exception as regards political offenders, but that, by the understanding of most civilised nations, such offenders cannot be put upon their trial after extradition for another offense. I must say, however, that if ever there was a nation which was entitled to confidence in this respect, it is the United States. (Hear.) I do not know of anything much nobler than the conduct of the United States after the suppression of the civil war. Men who in their disputes with us they branded over and over again as pirates and everything else that was bad, were, on coming into their own power, recognized as political offenders, who had simply tried to alter the Constitution of their country. There never was an instance of equal leniency under such circumstances. Moreover, this leniency does not stand alone. The facts relating to the case of Burley strongly tend to justify confidence in the United States on that subject. He was put upon his trial for robbery, and certain facts on which he had been surrendered being proved, the judge in the United States pointed out that the complexion of the case was political, and he summed up decidedly for an acquittal. It is true the jury differed, but the man had the benefit of the doubt and was not convicted. I think he was put on his trial a second time, but the result was the same. It was impossible to eliminate the political element from the case, and consequently he was not convicted. This is a very good reason for placing confidence in the United States on that subject. I would here remind your lordships of the remark which Lord Aberdeen made in 1843. He said:

"The great security was the provision that this part of the treaty should continue in force only till one or other of the two governments signified its intention to terminate it, so that, whenever inconveniences arose, either government was at liberty to put an end to that part of the treaty without being under the necessity of giving any notice beforehand."

It is plain that Lord Aberdeen would have followed the course which the noble earl opposite was first disposed to take until another view, which he at last accepted, was pressed upon him by another department of the government. I very much agree with a passage which I find in a letter from Mr. Fish, under date the 22d of May, 1876, in these papers. Mr. Fish says:

"The rights of society and the duties of the state in the punishment of criminals

should not be narrowed and unduly restricted, upon the vague suggestions or fear that, at some time, some political criminal may be placed in jeopardy. The duty of government to protect its own citizens and punish crime is equally a duty with that of affording hospitality and shelter to political offenders from abroad. The Government of the United States sees no reason why either should be sacrificed to the other, any more than why all criminals should escape, for fear some political offender may suffer."

Again, I find in a letter written by the late Sir Thomas Henry on the 4th of January last the following passage, which appears to me to have an important practical bearing on this point:

"After an experience of upward of 30 years, I can say that I have never known a single instance in which there was any occasion to consider whether there was anything of a political character in the offense charged; and I therefore think there is no cause for the least alarm upon that ground. Extradition treaties are in the nature of mercantile treaties, and are intended to afford protection chiefly against dishonest clerks and fraudulent bankrupts."

The present question has reference to no other nations which have extradition treaties with us, but only to the United States. They are perfectly willing to enter into the strictest engagements to try no man for a political offense who is surrendered under the treaty, and I think it would be greatly to be deplored if negotiations which had so nearly reached a practical end before this unfortunate difference between the two countries arose should now be made more difficult in their further progress. I should, indeed, feel deep regret if that unfortunate difference were to lead to anything like a permanent cessation of a treaty so important to both countries and to the administration of justice. (Hear, hear.)

The motion was then withdrawn.

Their lordships adjourned at 9 o'clock.

[Inclosure 2 in No. 19.]

[The Times, Friday, August 4, 1876.]

The argument on the construction of our obligations to the United States under the treaty of 1842 ought by this time to be ripe for settlement. The lord chancellor delivered last night the speech he began and was unable to go on with last week, and Lord Selborne followed with an elaborate reply to it. The discussions in the House of Lords and the correspondence between the two governments evidently furnish ample materials for judgment upon the treaty of 1842, and we ought to have little difficulty in deducing from them the proper form to be assumed by that new treaty which should be soon completed in the interest of both countries. It is, however, necessary to keep the two questions distinct from one another. What was agreed upon in 1842 is properly a legal question; what should be agreed upon now is a question of policy; and it may well happen that the obligations we accepted in 1842 are larger than those we should be willing to enter upon in 1876. It is because we believe them to be larger that we are satisfied to note the abrogation of the late treaty and to await the negotiation of a substitute.

Under the treaty of 1842 we bound ourselves to surrender to the United States fugitives against whom a *prima-facie* case could be established of criminality in respect of one or more of the crimes mentioned in the treaty, and an act was passed in the following year giving the necessary sanction to the obligations of the treaty. The treaty and the act say that the criminal surrendered is surrendered to be tried for the crime in respect of which he is surrendered; both are silent as to what may or must be done with him after he had been tried and acquitted, or, after having been tried and convicted, he has served out the term of his punishment. The contention of Lord Derby, which was fully sustained by the lord chancellor yesterday, was that a man surrendered in respect of one crime cannot be tried for any other committed before his surrender; and if the first trial breaks down, he must be allowed an opportunity of returning to the country whence he has been surrendered, and must then be made the subject of a fresh demand. The same reasoning would apparently apply if the man had been convicted and undergone punishment for the first offense. The United States Government, on the other hand, contend that when a man has been fairly claimed and fairly tried he may be put on his trial for any other offense against the laws of the United States, his surrender having been obtained honestly and for sufficient cause. It must be admitted that there is no express provision in the treaty of 1842 negativing this claim of the United States, and the lord chancellor was reduced to arguing against it yesterday on the ground that the statement that a man was to be tried for the offense for which he was claimed implied that he could not be tried for any other. The presumption thus raised is not very strong, and appears to be rebutted by the discovery that in subsequent treaties the proviso which Lord Cairns regards as a necessary implication has been expressly inserted as something that would not be deduced from the treaty if it was not stated.

Next the lord chancellor dwelt upon the opinions of international jurists, that an extradited criminal should be tried only for the crime for which he is given up; but the lord chancellor knows that these opinions have not been universally held, and they cannot govern the construction of the treaty of 1842, unless they were laid down with universal authority antecedently to it. Then Lord Cairns appeals to the language of the negotiators of the treaty, to the message of President Tyler to the Congress, and to the debates in Parliament in reference to it. We might insist upon the rule that the language of a statute cannot be construed by the help of debates upon it, but Lord Selborne showed that the debates in this case told against the lord chancellor, and it is undeniable that in two or three cases, whether by negligence or otherwise, the construction Lord Cairns would put on the treaty has been negatived in practice, and that it was twice deliberately repudiated by our own law-officers. We are glad to find that the lord chancellor does not adduce the statute of 1870 to explain the treaty of 1842, though he insists that the Government might appeal to the statute as preventing them from fulfilling the obligations of the treaty, and if he did not refer to it for this purpose it was because he found its most critical clause "absolutely and utterly unintelligible." On the whole, the lord chancellor fails to prove that the construction of the treaty insisted upon by the United States Government is not its proper construction. It is, at least, a construction that may be fairly held, though it must be added that even if it is the right and proper construction, it does not follow that we are bound to go on in submission to it. The treaty of 1842 could be put an end to at any time by either party to it, and, if its right construction is inconsistent with the principles of extradition Parliament deliberately approved in 1870, a proper case is presented for revising it in connection with the statute.

The treaty of 1842 is practically at an end; but it is imperative that a new treaty should be negotiated to take its place, and the important question to be discussed is what is the form of agreement for the extradition of criminals to which the United States and the United Kingdom can be brought to consent. If Lord Grey was rightly understood last week, he would allow refugees to be given up for all offenses, political or otherwise; but Parliament would never agree to a proposal which public opinion would emphatically repudiate. It may be argued with more plausibility that, if a man can be claimed for a civil crime, we are not required to protect nor justified in protecting him because he may be also amenable to political prosecution. If a man happens to be a forger as well as a political refugee, can his virtue as a refugee so efface his crime as a forger that he should not be given up at all; and, if we do give him up to be tried as a forger, has he not so far lost all claim to our sympathy that we may abandon him to any further prosecution? It is probable that, on a cool examination of the reasons which ought to govern our determination of this point, we should come to the conclusion that where a *prima-facie* case of vulgar crime is proved against a man, he should be handed over to the pursuing government without any more questions being asked or answered, but it would be useless and worse than useless to enter upon agreements which would be broken under stress of popular pressure, and, if we gave up a criminal who was also a political refugee, it must be under an agreement that he should be tried for the ordinary crime proved against him, and no other. This involves the necessity of requiring in all cases of extradition that the surrendered person shall be tried for civil crimes only, and that we shall be satisfied that the charges against him satisfy this condition. It does not, however, follow that a man claimed and surrendered in respect of a particular crime must be allowed an opportunity of returning to the country from which he was drawn before he is put on his trial for a second crime. He might be tried for any other crime which could be the ground of an extradition claim, subject to the proviso that we had some guarantee that the offenses thus made the ground of subsequent trials were such as we should recognize as justifying an original demand. There is no doubt a difficulty in suggesting the form this guarantee should take. The first demand for extradition is substantiated by evidence of criminality laid before a magistrate, but this process could not be applicable to subsequent charges, unless we resort to that troublesome process we desire to avoid of bringing over the criminal again, with all the witnesses against him. As our sole object is to prevent a political offense from being disguised as a vulgar crime, it would seem to be sufficient if the foreign office were made the judge of the *bona-fide* character of prosecutions which were about to be commenced against an extradited criminal by way of supplement to the case established against him when his extradition was first claimed. It might thus be provided that a man surrendered to be tried in respect of a particular crime *prima facie* proved against him, might be tried for any other crime enumerated in the schedule of the extradition treaty, provided always that in the case of his being thus tried upon a supplementary charge, minutes of the evidence brought against him should be furnished to the government which gave him up, and he should be subject to no other punishment than that of detention until the surrendering government had an opportunity of examining the case and of claiming his liberation, if there should appear to have been an abuse of the extradition. It may be said that difficulties of an awkward and even exciting kind might arise if such claims could be made, but we believe that

in practice they would never be experienced. Unless there was *mala fides*, they could not arise; and when there is *mala fides*, there will always be difficulties, whatever the form of the extradition treaty. Even if we went the length of saying that when a man is once given up on a criminal charge we should care no more about him, we might find ourselves tricked in surrendering a man for what appeared to be a vulgar crime, and turned out to be a political offense. We need scarcely refer to the evidence of the late Sir Thomas Henry, quoted by Lord Selborne last night, to prove that these are idle fears, and we believe, if a convention were drawn up upon the principles we have indicated, it would be found to work easily and well for the international repression of crime, without exposing the safeguards of political refugees to danger.

No. 156.

Mr. Fish to Mr. Pierrepont.

No. 15.] DEPARTMENT OF STATE,
Washington, August 5, 1876.

SIR: Mr. Hoffman's dispatch of the 3d of July forwarded to the Department a copy of Lord Derby's note to him, dated the 30th of June, in which he did me the honor to take into consideration and to offer a reply to mine to Mr. Hoffman, under date of the 22d of May, in regard to the extradition question.

Subsequent to the date of this instruction to Mr. Hoffman of the 22d May, and prior to the date of his lordship's reply, Her Majesty's government had discharged from custody the fugitives whose surrender had been demanded of Great Britain by the United States, with all the requirements of the treaty between the two governments providing for the extradition of fugitive criminals. This act of Her Majesty's government called for the decision of the President of the United States, which was announced in his message to Congress of the 20th of June last, of which you have been given a copy, wherein he stated that the position thus taken by the British government, if adhered to, cannot but be regarded as the abrogation and annulment of the article of the treaty on extradition; that, under the circumstances, it would not, in his judgment, comport with the dignity or self-respect of this Government to make demands upon that government for the surrender of fugitive criminals, nor to entertain any requisition of that character from that government under the treaty. The general question has therefore, for the present at least, and while the British government adheres to the position it has taken, become an abstract one, and this Government has no desire, under such circumstances, to prolong a discussion which does not promise to lead to any good result.

I deem it proper, however, to correct an error of fact into which his lordship appears to have fallen.

In my instruction of the 24th of May, alluding to a statement of the home secretary that no question had been raised by him until he was satisfied that Lawrence had been indicted though not arraigned for smuggling, I stated that the indictment against Lawrence for smuggling was found some time before any proceedings were taken for his extradition. In reply thereto, Lord Derby now states, "this may be so, but Lawrence was arrested and held to bail on this indictment for smuggling after his extradition."

After a careful examination of the question, and upon the authority of a report from the officer particularly charged with the prosecution of Lawrence, which entirely agrees with the information in the possession of the Department of State, it may be stated that since Lawrence

arrived in the United States in custody upon the proceedings taken in London for his extradition, he has not been arrested, has not given bail, and has not been arraigned or called upon to plead to the charge of smuggling, nor has he been arrested, arraigned, or called upon to plead to any indictment, or to any charge whatever, not based upon the particular charge of forgery, upon which he was surrendered.

Bail was fixed by the court upon a single indictment based on the forgery on which he was extradited, which was never offered, and to this indictment based on this forgery Lawrence pleaded guilty on the 24th of June.

This plea being entered, he was admitted to bail, and has since been at large pending sentence.

Some error has also arisen in reference to the statement that I informed Sir Edward Thornton that although Lawrence had not been arraigned for any crime other than that for which he was given up, he had given bail to appear for other crimes.

The accomplished minister of Great Britain must have misunderstood what was said on this point, as Lawrence prior to his plea of guilty on the charge for which he was surrendered, and at the date of the alleged conversation, had never given bail upon any charge whatever.

Believing it important that no mistake of fact should exist as to these proceedings, you will, with Lord Derby's permission, leave with him a copy of this instruction.

I am, &c.,

HAMILTON FISH.

No. 157.

Mr. Pierrepont to Mr. Fish.

No. 24.] LEGATION OF THE UNITED STATES,
London, August 23, 1876. (Received September 4.)

SIR: Referring to your dispatch, No. 15, dated August 5, 1876, I have the honor to state that I have left with Lord Derby a copy of the same, but have not been able yet to have any conversation with him. Lord Tenterden is out of town.

I shall promptly attend to whatever Lord Derby may say or communicate on the subject of that dispatch.

I have, &c.,

EDWARDS PIERREPONT.

No. 158.

Sir Edward Thornton to Mr. Fish.

PHILADELPHIA, *May* 13, 1876. (Received May 15.)

SIR: In compliance with the request of the Governor-General of Canada, I have the honor to inform you that a person of the name of Maraine Smith, late of the city of Detroit, Michigan, was, on the 4th of last month, committed to jail at Sandwich, in the county of Essex, Ontario, as a fugitive from the justice of the United States, on the charge of having murdered one Daniel R. McKeon.

As the usual application for the surrender of this man under the extradition treaty has not been received by the Governor-General, his excellency has requested me to inform you that on the 4th of June, two months from the date of his committal to prison, the prisoner will be entitled to claim his discharge.

I have, &c.,

EDWARD THORNTON.

No. 159.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, May 17, 1876.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, informing me, at the request of the Governor-General of Canada, that one Maraine Smith, late of Detroit, was committed as a fugitive from justice in the county of Essex, Ontario, upon the 4th of April last, and, as the usual application for his surrender, under the extradition treaty, had not been received, that upon the 4th of June he will be entitled to claim his discharge.

Upon the 11th ultimo the governor of Michigan addressed me, stating that the person referred to, after an examination, had been committed for the crime of murder, and was held to await extradition, and requested that the proper steps be taken for that purpose.

The case had not been brought to the attention of this Department prior to that time.

As Her Majesty's government, at the time of the receipt of this communication, had already informed the United Statesithat Winslow and other fugitive criminals, then in British jurisdiction, n whose cases the necessary steps had been taken, and who had been committed for extradition, would not be surrendered pursuant to the stipulations of the 10th article of the treaty of 1842, it was deemed advisable to desist from preferring applications for extradition in new cases until the final decision of Her Majesty's government on that question should be reached, and the governor of Michigan was informed of this conclusion.

While, therefore, requesting you to express the thanks of this Government to his excellency the Governor-General for his courtesy in furnishing the information referred to, I have to request that you will inform him of the reason why no formal request has been preferred in this case pending the decision of Her Majesty's government in the Winslow and other cases now before it.

I have, &c.,

HAMILTON FISH.

No. 160.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *May* 23, 1876. (Received May 23.)

SIR: In compliance with a request which I have received from the Governor-General of Canada, I have the honor to inform you that two men, named Walter Moore and Frederick Moore, charged with the crime

of murder in Canada, are fugitives from justice, and are now under arrest in Boston, having been remanded till to-morrow, and to ask that, when the necessary forms shall have been complied with to your satisfaction, a warrant may be issued for their extradition, and for their delivery to Alphonse Cinq, who is authorized to receive the prisoners.

I have, &c.,

EDW'D THORNTON.

No. 161.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *May* 26, 1876. (Received May 27.)

SIR: With reference to my note of the 23d instant, I have the honor to inform you that in that note I incorrectly stated the name of the person into whose charge the prisoners, Walter Moore and Frederick Moore, charged with the murder in Canada, should, if surrendered, be delivered. The name should have been Alphonse Cinq Mars.

I have, &c.,

EDW'D THORNTON.

No. 162.

Sir Edward Thornton to Mr. Fish.

WASHINGTON, *July* 13, 1876. (Received July 14.)

SIR: From a dispatch which I have received from the governor-general of Canada, it appears that one Charles P. Jones, late of the county of Stark, in the State of Ohio, was, on the 30th ultimo, committed to jail at Hamilton, in the county of Wentworth, Ontario, as a fugitive from the justice of the United States.

As the usual application for the surrender of this man under the extradition treaty has not been received by the Canadian government, the Earl of Dufferin has requested me to inform you that at the expiration of two months from the date of his committal to prison, Charles P. Jones will, under the Imperial Statutes, 33 and 34 Vict., cap. 52, be entitled to claim his discharge.

I have, &c.

EDWD. THORNTON.

No. 163.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, July 18, 1876.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, informing me, at the request of the governor-general of Canada, that one Charles P. Jones was committed to jail at Hamilton, Ontario, upon the 30th ultimo, as a fugitive from the justice of the

United States, but, as no application for his surrender under the extradition article of the treaty of 1842 had reached the Canadian government, he would be entitled to his discharge at the expiration of two months from his commitment.

The governor of the State of Ohio some time since addressed me, requesting an application in the usual form for the delivery of Jones under the treaty, but it was not deemed proper to prefer such application, for the reason stated in my note of the 17th May in reference to the case of Maraine Smith.

Since the date of that note the case of Winslow has been disposed of by a refusal to surrender him, and by his discharge from custody. Thereupon, and on the 20th ultimo, the President communicated to Congress the reasons which in his opinion made it impossible to prefer further demands for the surrender of fugitive criminals under the 10th article of the treaty of 1842.

I have the honor to inclose a copy of this message* which will explain the position which the President has felt constrained to adopt, and the reasons why a request for the surrender of Jones has not been preferred.

In bringing these reasons to the knowledge of the governor-general of Canada, I will thank you to express to him my appreciation of his courtesy in the matter.

I have, &c.,

HAMILTON FISH.

GREECE.

No. 164.

Mr. Read to Mr. Fish.

No. 219.] LEGATION OF THE UNITED STATES,
Athens, August 3, 1876. (Received August 21.)

SIR: On the 1st of July, 1876, the minister of public instruction, on the demand of the holy synod, the supreme ecclesiastical authority and head of the state church of Greece, issued a circular prohibiting the dissemination or reading of certain books (a list of which is annexed in the translation of the above circular, marked 1) in the communal and private schools throughout the kingdom. On the same date the same minister issued a second circular, prohibiting the sale and circulation of the same books within the kingdom, on the ground that they were likely to entrap the simple-minded and interfere with their faith in the established orthodox church of Greece. This action, I am informed, was based upon article I of the Greek constitution, which is as follows:

"Article I. The prevailing religion in Greece is the Eastern Orthodox Church of Christ. Every other known religion is tolerated, and whatever concerns the ceremonies of these tolerated religions may be performed without obstacle under the protection of the laws, proselytism being, however, forbidden, as also every other interference with the prevailing religion."

A week ago the Rev. Mr. G. Leyburn, an American citizen, representing the American, and British and Foreign Bible Societies, and the Southern

* Page 253.

Presbyterian Board of Missions, and the Rev. Mr. Kalapothakes, a Greek citizen, also representing the above institutions, came to complain of the promulgation of the second order, saying that they had ten or twelve agents in different parts of Greece engaged in the sale of these works; that their shop in Patras had already been closed by orders of the government, and that further steps were about to be taken to stop the sale of the books in their charge belonging to the American and British Bible Societies, by which the said societies would suffer large pecuniary loss.

They desired me to see the minister of foreign affairs, to ascertain if some arrangement might not be made for the withdrawal of the second order.

I called *unofficially* upon the minister of foreign affairs, but did not find him at home. In the mean time Mr. Leyburn had published a letter in the Stoa which called forth a sharp reply from the Ephemeris.

* * * * * * *

Saturday morning I had an *unofficial* conversation with Mr. Contostaolos, in which I referred to the matter, saying particularly that the prohibition of the sale of the Bible had created great surprise, as its circulation was allowed now even in Turkey.

He replied that he was not informed with regard to this particular case, but that in general the holy synod was not opposed to the circulation of the Bible, but that it had a right to object to the sale of translations of which it did not approve, and which it considered contained passages injurious to the dogmas of the church. He said that he would inform himself particularly upon the subject, and communicate the result to me. In the mean time I made myself thoroughly acquainted with the laws and with the constitutional provisions touching the matter, especially article 14 of the Greek constitution, which contains this clause: "Chacun peut publier ses pensées oralement, par écrit ou par la presse, en observant les lois de l'état. La presse est libre. La censure, ainsi que toute autre mesure *préventive, sont prohibées.*" In the language of a distinguished Belgian commentator, "De cet article il resulte que la manifestation des opinions en toute matière est guarantie par la constitution, qu'elle ne peut être sujettée à des mesures *préventives*, que notre systême ne peut être que répressif."

Further investigation convinced me that while the minister of public instruction had a perfect right to issue the first circular, he was entirely wrong in issuing the second, which resulted in prohibiting the sale and circulation of the volumes in question and even the closing of the shop at Patras.

If the holy synod believed that these works contained passages antagonistic to the Greek Church, it had a right to make complaint to the minister of public instruction, whose duty it would then be, not to issue a prohibitory circular, but to bring the matter before the national tribunals, upon whose examination and subsequent decision all action must depend. From my knowledge of the government, and of the prime minister, I hoped and believed that a clear unofficial statement of the case would be taken into favorable consideration. Accordingly I called upon Mr. Commoundouros *unofficially*, as I took care to inform him, and related the facts and gave him my view of the case, observing in conclusion that while I thought that the minister had no right to issue the circular, I supposed that he might have a right to resort to legal measures, but that as a friend of the government of Greece, I believed it would be much better not to take such a step, but to nullify the second circular and say no more about the matter; that I felt sure that

such a course would be appreciated by many friends of Greece in all parts of the world. Mr. Commoundouros received me with great cordiality, and, after a thorough discussion of the matter, said: "I agree with your view, and I will talk with the other members of the cabinet and give you a reply to-morrow." On Tuesday I called again upon the prime minister, and he hastened to say that orders had already been issued to allow the free circulation and sale of the Scriptures and other books in all parts of the kingdom. He seemed to be much pleased by the friendly course which I had pursued in the matter, and I was happy to observe the enlightened spirit in which he met the case.

It is impossible to describe the jealousy entertained by the Greeks toward anything which has the slightest appearance of leaning toward proselytism. This feeling lies at the base of their political and religious existence, and few public men would dare even to seem to run counter to it.

The prompt and liberal action of the government, therefore, in this case, in response to a merely unofficial suggestion, reflects the highest credit upon their independence and liberality of sentiment.

I have, &c.,

JOHN MEREDITH READ.

[Inclosure 1 in No. 219.—Translation.]

Translation of circular extracted from the semi-official organ of the ministry, the Ethnicon Puevma of the 14th of July, 1876.

No. 4064, 4209.

Subject: On the suppression of some books in the schools.

KINGDOM OF GREECE.

The ministry of ecclesiastical affairs and public instruction to the directors of the communal and private male and female schools in the kingdom:

The Holy Synod of the church of Greece transmitted to us by their letter of the 22d May / 3d June last, numbered 2985, 3118, a catalogue of such books as are now known to them, the reading and use of which is forbidden in the schools, because they may cause in the spirit of the pious youth impressions contrary to the dogmas, mysteries, rules, teachings, traditions, ceremonies and customs of the Orthodox Eastern Church.

Whereas we are informed that attempts are made to propagate these books among the people, we request you to pay strict attention that such books may not enter, for any reason whatsoever, the schools under your direction.

We annex herewith a catalogue of these books for your information.

ATHENS, June 19th, / July 1st, 1876.

The minister,
(Sign,) G. MILISSIS.

Secretary,
ALEX. I. V. VLACHOS.

Catalogue of books suppressed as are now known to the holy synod.

1. The translations of the Old Testament from the original Hebrew into the modern Greek.
2. The translations of the New Testament into the modern Greek.
3. Paraphrase of the New Testament into the modern Greek.
4. Translation of the Old Testament, translated by the Septuagint into modern Greek.
5. The Gospel of John, with expository notes and practical observations.
6. Bunyan's Pilgrim's Progress.

7. Practical Examination of the Religious System of the Christian by Profession.
8. The Morning, or a course of primary religious education.
9. Line upon Line, or a second series, etc.
10. Precept upon Precept, or a third series, etc.
11. An Answer to Gibbon.
12. An Answer to Paine.
13. On the conversion of Saint Paul.
14. An abridged history of the Church of Christ.
15. A Collection of Useful Readings. Vol. I.
16. John Chrysostome on the Reading of the Scriptures.
17. A Collection of Useful Readings. Vol. II.
18. Saint's Rest.
19. Baxter's Call to the Unconverted.
20. Butler's Analogy.
21. Brief Observations on the History, the Authority, and Purpose of the Sabbath.
22. Examination of the Internal Evidences of the Christian Faith.
23. History of Mary Lithrope.
24. Dairyman's Daughter.
25. The Friend of Sinners.
26. Moral Stories.
27. The Lord's Day.
28. Scripture Narratives.
29. The Good Shepherd.
30. Dialogue on the Divine Inspiration of the Bible.
31. On Penitence.
32. Natural Theology.
33. A Mother Keeping her Room.
34. Infidel Objections Answered.
35. The Inconveniences of Deism.
36. The Noble Jean Grey.
37. The Faded Leaf.
38. Corae's Commentary on the Epistles of Timothy and Titus.

[Inclosure 2 in No. 219.—Translation.]

Translation of circular No. 4064, 4209.

Subject: On the suppression of some books in the schools.

KINGDOM OF GREECE.

The ministry of ecclesiastical affairs and public instruction to the prefects and sub-prefects of the kingdom:

Inclosing herewith sufficient copies of the circular issued to-day to the directors of the communal or private male and female schools, we invite you to send a copy to each one of these directors who may be in your district. At the same time we call your strict attention to what is therein prescribed; to attend to the execution of what is ordered by the above-mentioned circular, and also prevent the selling and circulation of such books; keeping in that way the simplest of citizens from the trap which is laid against their piety.

ATHENS, $\frac{June\ 19,}{July\ 1,}$ 1876.

The minister,
G. MILISSIS.

The secretary,
ALEX. I. V. VLACHOS.

[Inclosure 3 in No. 219.—Translation.]

Translation of extract from the Eastern Star, Athens, July $\frac{18}{30}$, 1876.

The two circulars of the minister of ecclesiastical affairs and of public instruction.

The minister of ecclesiastical affairs and of public instruction, upon the instigation of the holy synod of the kingdom of Greece, has issued two circulars (one numbered 4064) to the directors of the public and private schools, and another (numbered 4208) to the prefects of the state. By the first he requests the directors of the schools to pay

attention that certain books should not be introduced into the schools which they are directors of; a catalogue of these books he also annexed. By the second circular he prays the prefects to prevent the circulation of these books among the people, that the simplest may not purchase them to the damage of their souls, as being opposite "to the dogmas, the mysteries, the rules, the teaching, the traditions, ceremonies, and customs of the Orthodox Oriental Church."

On every one of these books and requests, their contents we will treat in extenso at the proper time. At present we only say, that among them there are, which do you suppose? If you can help it, dear readers, do not be astonished, do not blush, do not cover your faces for shame for the wretched, degraded condition of the church and the state! Yes, among them, although incredible, are numbered the Holy Scriptures translated into modern Greek; not only from the original Hebrew, but also from the translation of the Septuagint; the translation of the New Testament by the late Typoldos and Th. Bamba; the collection made from the works of Saint John Chrysostome of passages relating to the reading of the Holy Scriptures; the beautiful and important explication of the St. John's Gospel; the Corae's commentary on the epistles of Timothy and Titus, and other moral books, the reading and study of which, instead of doing harm, confirm the Christian in his faith, books which we will prove in detail exercise a wholesome influence upon the whole Christian and non-Christian world.

The official act of the minister is very important in its consequences, and cannot do otherwise than cause sorrow to every one who loves Greece and her glory. As such we shall examine it with a sentiment of duty to the country and the church, both of them being badly recommended and dishonored in the Christian world, at a time especially in which fierce idolatrous nations open their doors to the gospel, and at a time when the East, in which Greece pretends to play an important part by Hellenism and Christianism, is shaken to its foundations.

For a more easy explanation of this important question we shall examine it under two points of view, the *religious* and *political;* we will show the injustice and mischievous and anti-Christian which is in it. But we hope that the government, examining this affair impartially and with care, will, before it takes a more important character, recall the circulars, which have been signed (we say it with regret) without the least attention; yes, they have been signed blindly by the educated, and up to this time distinguished for his liberal ideas, minister of public instruction, Mr. Milissis.

What is curious is, that at the time when by these circulars he deprives as far as he may do it, (because the people of Greece, we declare it with pleasure, is very far from "believing without examining,") the people of Greece of the Holy Scriptures and other wholesome books; by another circular he imposes upon the professors and teachers, the bishops and the holy monasteries, a party journal, the purpose of which is not certainly to render the people moral.

[Inclosure 4 in No. 219.—Translation.]

Translation of extract from the Stoa, Athens, July 27, 1876.

To the editor of the *Stoa:*

There was lately issued, upon the recommendation of the holy synod of Greece, by the minister of ecclesiastical affairs and public instruction, a circular by which the reading of some books in the public and private schools of the state is forbidden, "because they may inspire impressions contrary to the ordinations, mysteries and rules, the teaching, traditions, ceremonies, and customs of the Orthodox Oriental Church."

That circular is very important, and worthy of every attention by all your countrymen, because the Holy Synod, this high ecclesiastical body of the free state of regenerated Greece, describes some books, a catalogue of which they also annex, as "to be able to inspire in the mind of pious young men impressions contrary to the teaching of the church," which above all the others attributes to herself the name of *orthodox.*

Thinking the prohibition in the schools not sufficient, the minister advanced a step further, and by another circular to the prefects of the state directs them to strictly forbid the selling and circulation of such books among the people, "keeping in that way the most simple of citizens from the trap placed against their piety." In other words, he entirely forbids their circulation in the entire kingdom of Greece. But what are the books that the holy synod considers so dangerous to the young, and that the minister entirely forbids being circulated as obnoxious to the public interests, as fatal to the studying youth, and in general to the citizens of Greece?

From the style of these circulars one would perhaps suppose that these books were nasty novels or romances, such as are to be seen every day sold in the market by boys and purchased and insatiably read by young men, whom they desire to protect by this order; or that they contain curses against God and Jesus Christ, or unfaithful theories subversive of the Christian faith and attacking good morals, or, at least, that they contain ideas against the prevailing church and the interest of the state.

Certainly it would be thought that it is so; because one would have never believed that the holy synod and the minister would have blamed and forbidden the circulation of books, the contents of which were unknown to them, and which, I am obliged with sorrow to say, that they have never read.

That you may be convinced of the truth of these words of mine, take in hand yourself, Mr. Editor, the catalogue of the books, and look at it.

The first book forbidden in the schools and society is ("but do not tell it in Gad, do not announce it in Askalon," for the enemies of Greece would rejoice) the Holy Scriptures of the Old and New Testament; in the common language, that is to say, in the only language that can be understood by the people.

Yes; at the head of this catalogue you will meet the entire Word of God in general, and each part especially, whether from the original Hebrew or the translation of the Septuagint, or from the Greek original of the New Testament, the paraphrase was made.

In the same catalogue you will find another book, Butler's Analogy, an admirable book and very useful to everybody, especially to the young, written by the pious and celebrated English Bishop Butler, one of the most profound savants of England, the purpose of which is to show the analogy between nature and revelation, and prove the logic of Christian truths from the likeness, as far as it is possible, of the teachings of God in the Bible, creation, and providence.

Two other pamphlets, containing answers against the objections of two famous infidels, Paine and Gibbon.

The Christian Traveler, a very Christian and instructive allegory, written by the Englishman John Bunyan, of which the learned Dean Stanley says: "All the English literature produced only two works of *universal popularity;* one of them is Pilgrim's Progress." The great historian Macaulay observes that Bunyan was one of the two only original minds that England produced in the seventeenth century.

The above allegory, which is numbered among the forbidden books, is, after the Holy Bible, the most propagated book in the world, translated in almost all the languages in which the Scripture itself is. In the English language alone it had 20 editions, each composed of many thousand copies, and numbers 20,000,000 of copies sold in all the languages of the earth.

"John Chrysostome's on the reading of the Holy Bible," while this father of the Eastern Greek Church recommends the reading of the Bibles to all men, and which a distinguished Greek, the now living respectable old warrior, Mr. Psyllas, who, having been once a minister of public instruction, recommended by a circular to all schools of the state as a book of reading.

These are the books, and these are the authors.

They have been written and published not for a warlike purpose, but for the defense and support of the Christian faith, and for the edification of the Christian church in general, guiding the ignorant, encouraging the disheartened, supporting the feeble, and enlightening and persuading and converting those who have a different opinion, infidels and those who do not know Christ in God, without distinction of race, language, or religion.

Many things could be said, Mr. Editor, upon this subject, but my object in the present article is to call the attention of the press, and through it of the public of Greece, to the subject. The public of Greece, indeed, judging from its favor to the Scriptures and to these books, does not partake of the ideas of the minister in this strange circular. I will show the difficult position in which, through this circular, the church and the state are placed before the Christian and enlightened world.

* * * * * * *

I will moreover pray the assistance of the enlightened press, that this unlawful circular may be recalled, which does not correspond to the sentiments and the liberal ideas of the Greek people, and which, if realized, would cause not little troubles to Greece. Because the great societies of England and America, to which these books belong, will not certainly remain impassive spectators of an act which is diametrically opposite to every divine and human right, as also to the Greek constitution, an act which prevents the free circulation of their works among the Greek people.

I am, &c.,

GEORGE LEYBURN,
American Missionarg.

Note of the Stoa.

Having not any space to-day, we will write in a future time on this affair. We now only observe, that the minister ought not to be persuaded and issue a circular in such a way without examining, which is offensive for the country.

He could charge able men to judge whether it is not a shame to exclude books simply moral, which have nothing religious in themselves. It is sufficient to say of one o them, Bunyan's Pilgrim's Progress, that it is translated into 200 languages, that is to say into as many as the Holy Scripture.

[Inclosure 5 in No. 219.—Translation.]

Extract from the "Ephemeris," Athens, July 28, 1876.

After the many things we have said at different times as to missionaries, and especially concerning those who appropriate to themselves the title of a new unknown Evangelical Greek Church, (as if our own was opposed to the gospel;) after we have proved, if nothing else, that the way that they seek to educate us in Christianity (as if we were savages) is not in conformity with our uses and customs; after so many accusations against the existence of a Greek Evangelical Church as being against the constitution (because it is an unknown dogma)—a minister, Mr. Milissis, is found who has laudably paid a little attention to this question, and has proceeded to the following measure, viz: he has issued a circular upon the request of the holy synod, by which he forbids the reading of some books in the public and private schools of the kingdom, "because they may inspire impressions contrary to the decrees, mysteries, rules, teaching, traditions, ceremonies, and customs of the Orthodox Oriental Church;" and further says that these books "may inspire in the mind of the pious youth impressions contrary to the teaching of the church, which, above every other Christian church, appropriates to herself the name of orthodox."* By another circular the minister requests the prefects to prevent the selling and circulation of such books among the people, "preserving in that way the simplicity of the citizens from the trap placed against their piety."

Those books are American books, (viz: the Holy Scriptures in common Greek language, Analogy of Religion, Answers to Paine and Gibbon, The Christian Pilgrim, On the reading of the Scriptures, and some other pale moral novels for societies of other kind, &c.,) which are printed by a great society in thousands of copies in all the languages of the world, and distributed almost gratis *in order to sustain Christianism*, (as if it was shaken, and as if, should that be the case, it could be saved by their means,) and for the edification of the church in general, (as if it was not edified.)

But while, for many reasons, which in case of need we will be obliged to repeat, we felt some relief in having seen the circulars of Mr. Milissis, an American missionary, Mr. George Leyburn, wrote yesterday in the "Stoa," expressing his astonishment that this circular should be issued, while the books are moral and the Greek constitution does not recognize such severity.

The Mr. Missionary, (of whom we repeat it we do not understand the quality in these times in a nation which has its history, convictions, faith, communal instruction, high instruction, laws, arts, clergy, a great recognized church,) the Mr. Missionary, we say, who can hardly be comprehended in the midst of savages, must know first that the books for instruction in the schools are approved by the ministry, who consider the national education, which they desire to give to the new generation, and after they have approved what they think worth approving they must not allow the use of others, and so put the pupil into chaos. As to the prohibition of the general circulation, the Mr. Missionary, before he gets astonished, must answer to these questions:

a. What is the meaning of a missionary in Greece? Are we perhaps Hong-Kong or India?

b. What does that great society seek, which prints and prints, expending millions, and distributes gratis these books?

c. What is its interest? To make Christians? We are Christians. To make us a different kind of Christians, more faithful? We do not desire her assistance. Greece by Greece. What does it want? What is its interest?

d. In these days a society which cannot account for so much per cent. gains, cannot exist. It must have another purpose to expend so much. Has it, perhaps, self-denial? A Christian mania? We do not want it; because that mania will come in opposition to other national traditions very poetically and beautifully connected with our church as it is.

e. If this society succeeds here and sows among us all books and makes us believe and live as it desires, will it not have the right to say that we are offsprings of missionaries? We would not like such assistance, if by that system we could even save our bodies and souls.

When the Mr. Missionary reflects upon and answers all those facts, he will see that the Greek prefers and must prefer to read the Scriptures in the very poetical translation of the Septuagint and not in prose and corrupted phrase. He will see that some of those moral and evangelical novels can change our Christian character, with which we are entirely satisfied, and make us saints in behavior, but not Greeks.

Then we shall want the riches and machines of America, otherwise we should be unfortunate. Finally, he will understand that that scandalous gratuitous distribution will exercise some influence which will come inevitably into opposition with our ecclesiastical principles, or indirectly will undermine them, having as means the simplest of the citizens, will bring forth scandals, &c. We pass over for the present, Mr. Missionary, the employment of whom we cannot really understand in Greece, the more accurate examination of these books, which in some parts are altered to the damage of our mysteries and rules and customs.

* This last phrase is not contained in the circular.

[Inclosure 6 in No. 219.—Translation.]

Translation of extract from the Stoa, Athens, July 29, 1876.

To the Editor of the Stoa:

I saw with astonishment what the Ephemeris of yesterday wrote upon the article published in the publication of the Stoa of the day before upon the two circulars of the minister, Mr. Milissis. That is not a refutation; there are not any arguments, neither logical expressions, but many and various words put together without connection, without meaning and weight. I do not intend, therefore, to answer.

I desire only to say, and I say it with sorrow, that a paper boasting of its integrity shows an unpardonable inconsequence on this occasion, because, while on the one hand it declares that it does not understand the meaning of a missionary in Greece, on the other it *regularly every week publishes* a notice inviting the public to the sermon of *another American missionary*.

"If the editors of the Ephemeris do not understand the meaning of a missionary in Greece, why did they some time ago publish in the Ephemeris that among foreign travelers who visited the Areopagus were the Rev. Mr. G. Constantine, who delivered a sermon upon it?

This other missionary is perhaps preaching the decrees and dogmas and mysteries and traditions of the Orthodox Eastern Church, and for that reason he is understood by the editors of the Ephemeris, and they do not understand Mr. Leyburn.

Finally, we declare *as false* that the books of these societies are given gratis; on the contrary, we announce with pleasure, in honor of the Greek people, and in spite of the opposition of many who are not pleased by the evangelical truth, that the book-sellers of these societies sell yearly about eight thousand copies of the scriptures and of the other books; and we inform the Ephemeris that every prohibition of their circulation among the people is unlawful and cannot be executed without unpleasant consequences.

I am, sir, &c.,

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No. 165.

Mr. Read to Mr. Fish.

No. 226.] LEGATION OF THE UNITED STATES,
Athens, August 12, 1876. (Received September 2.)

SIR: Referring to my Nos. 164 and 216, I have the honor to inclose a circular, with translation, of the minister of finance, issued on the 2d instant, which regulates the exchange of foreign silver coins at the public treasuries throughout Greece.

I have, &c.,

JOHN MEREDITH READ.

[Inclosure in No. 226.—Translation.]

CIRCULAR No. 17.—Subject, on the exchange of foreign silver coins.

KINGDOM OF GREECE.

The ministry of finance to the administrative authorities, the treasurers, the financial superintendents, and the directors of customs of the state.

There were submitted to the government complaints of the citizens, requesting that the state should undertake the exchange of foreign silver coins which they possess, and the reception of which into the public treasuries is prohibited by the royal decree of the 26th of March, (7th of April,) 1876.

The state has not any such obligation, because the decree has merely prescribed the monetary relations of the public treasuries with the citizens who now complain, although they were long ago informed that they ought to regulate their affairs so as not to retain possession of foreign silver coins.

But notwithstanding this, in order to do away with even unreasonable complaints, the government has resolved to agree with the request of the citizens. But it cannot assume without a law, as a charge of the state, the damage to be caused by the exchange. This damage is calculated to be five lepta for the zwanzigers and forty lepta for the thalers in general. In order, therefore, to execute this measure of the govern-

ment, we request the treasurers of the state to make the exchange, by bank-notes or new silver coins, reducing at the rate above mentioned, of all old coins which would be fetched to them by the citizens, excepting the worn-out and holed, which they must not receive.

This exchange will only take place in the provincial treasuries, and only up to the 31st of this month,* (12th of August.) After that day the exchange is severely forbidden. It must be understood that to ask for an exchange one must fetch coins of at least the value of one hundred drachmas.

The exchange will be enacted at fixed hours of the day, in the presence of the subprefect or the financial superintendent, who will countersign, with the person presenting the coins and with the treasurer, the bill of delivery, on which the coins exchanged will be minutely described in their kind and amount.

For the difference arising out of the reduction the treasurers will issue a bill with the title "difference arising out of the exchange of foreign silver coins." They will deliver it to the citizen who will present the coins for exchange. Upon the above bills there will be an accurate and detailed description of the kind and amount of the exchanged foreign coins.

If it happens that some one of the treasurers has not moneys in hand to act the exchange at once, he can issue for the sum to be paid a monetary bill, to be paid, without any stamp-duty, at the same treasury when money has been collected there.

A law will regulate whether the difference kept by the state will be returned to the citizens, and whether the state will be compensated for the damage to be caused to the state from the exchange. Foreign coins concentrated in the treasuries from the exchange will be delivered to the banking establishments, to be exchanged in accordance with what is ordered in our circular of the $\frac{8\text{th}}{20\text{th}}$ of July, No. 9790.

ATHENS, $\frac{\text{July 21st,}}{\text{Aug. 2d,}}$ 1876.

The minister,

S. SOTIROPOULOS.
A. G. MELETOPOULOS.

No. 166.

Mr. Read to Mr. Fish.

No. 230.] LEGATION OF THE UNITED STATES,
Athens, August 23, 1876. (Received November 2.)

SIR: I have forwarded to the Department of State an exact copy in plaster of a most ancient diplomatic instrument recently found in Greece.

The Archæological Society of Athens, of which I am a member, has been engaged for some time in making excavations on the south side of the Acropolis. The discoveries already reached in some respects surpass in importance those at Olympia.

Besides the ruins of three temples mentioned by Pausanias, numerous inscriptions and remains of ancient statues, evidently belonging to the Parthenon, have been found. But the most remarkable relic was discovered on the 28th of June, in the base of the southern wall of the Acropolis. It was nothing less than a treaty between the Athenians and Chalcedonians, of the third year of the eighty-third Olympiad, 446–445 B. C., engraved upon a large block of Pentelic marble, several years before the Parthenon was commenced by the orders of Pericles. Scarcely a letter is missing from this remarkable document. It completes a passage of Thucydides, and is referred to by Plutarch and Diodorus Siculus. Immediately after it was brought to light by the learned secretary of the society, M. Coumounadis, I directed a plaster-cast to be taken of the size of the original. It seems to me fitting that this should find a resting-place in the treaty-making department of our Government.

* * * * * * *

I have, &c.,

JOHN MEREDITH READ.

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* July, old style.

HAWAIIAN ISLANDS.

No. 167.

Mr. Peirce to Mr. Fish.

No. 363.] LEGATION OF THE UNITED STATES,
Honolulu, Hawaiian Islands, June 20, 1876. (Received July 6.)

SIR: I have the honor to inclose herewith three printed copies of the Hawaiian government's proclamation, to carry into effect the treaty of commercial reciprocity between the United States and this kingdom.

Nothing more is necessary to be done here in the premises, except to instruct the collector-general of the customs to admit free of duty articles from the United States named in article 2 of the treaty, made contingent on a like instruction being given by the United States Government to admit free of duty articles from these islands named in article 1.

With great, &c.,

HENRY A. PEIRCE.

[Inclosure in No. 363.]

[Hawaiian Gazette extra.]

PROCLAMATION.

Whereas, by the advice and approval of the legislature of our kingdom, we did enter into a convention with the United States of America on the subject of commercial reciprocity, which said convention was concluded and signed by our plenipotentiaries and the plenipotentiary of the United States of America at the city of Washington, on the 30th day of January, 1875, and, as amended by the contracting parties, is word for word as follows:

The United States of America and His Majesty the King of the Hawaiian Islands, equally animated by the desire to strengthen and perpetuate the friendly relations which have heretofore uniformly existed between them, and to consolidate their commercial intercourse, have resolved to enter into a convention for commercial reciprocity. For this purpose, the President of the United States has conferred full powers on Hamilton Fish, Secretary of State, and His Majesty the King of the Hawaiian Islands has conferred like powers on honorable Elisha H. Allen, chief-justice of the supreme court, chancellor of the kingdom, member of the privy council of state, His Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, and honorable Henry A. P. Carter, member of the privy council of state, His Majesty's special commissioner to the United States of America.

And the said plenipotentiaries, after having exchanged their full powers, which were found to be in due form, have agreed to the following articles:

ARTICLE I.

For and in consideration of the rights and privileges granted by His Majesty the King of the Hawaiian Islands in the next succeeding article of this convention, and as an equivalent therefor, the United States of America hereby agree to admit all the articles named in the following schedule, the same being the growth and manufacture or produce of the Hawaiian Islands, into all the ports of the United States free of duty.

SCHEDULE.

Arrowroot, castor-oil, bananas, nuts, vegetables, dried and undried, preserved and unpreserved; hides and skins, undressed; rice; pulu; seeds, plants, shrubs, or trees; muscovado, brown, and all other unrefined sugar, meaning hereby the grades of sugar heretofore commonly imported from the Hawaiian Islands, and now known in the markets of San Francisco and Portland as "Sandwich Island sugar;" sirups of sugar-cane, melado, and molasses; tallow.

ARTICLE II.

For and in consideration of the rights and privileges granted by the United States of America in the preceding article of this convention, and as an equivalent therefor, His Majesty the King of the Hawaiian Islands hereby agrees to admit all the articles named in the following schedule, the same being the growth, manufacture, or produce of the United States of America, into all the ports of the Hawaiian Islands free of duty:

SCHEDULE.

Agricultural implements; animals; beef, bacon, pork, ham, and all fresh, smoked, or preserved meats; boots and shoes; grain, flour, meal, and bran, bread and breadstuffs of all kinds; bricks, lime, and cement; butter, cheese, lard, tallow; bullion; coal; cordage, naval stores, including tar, pitch, resin, turpentine, raw and rectified; copper and composition sheathing; nails and bolts; cotton and manufactures of cotton, bleached and unbleached, and whether or not colored, stained, painted, or printed; eggs; fish and oysters, and all other creatures living in the water, and the products thereof; fruits, nuts, and vegetables, green, dried or undried, preserved or unpreserved; hardware; hides, furs, skins and pelts, dressed or undressed; hoop iron and rivets, nails, spikes, and bolts, tacks, brads, or sprigs; ice; iron and steel and manufactures thereof; leather; lumber and timber of all kinds, round, hewed, sawed, and unmanufactured, in whole or in part; doors, sashes, and blinds; machinery of all kinds, engines and parts thereof; oats and hay; paper, stationery, and books, and all manufactures of paper, or of paper and wood; petroleum and all oils for lubricating or illuminating purposes; plants, shrubs, trees, and seeds; rice; sugar, refined or unrefined; salt; soap; shooks, staves, and headings; wool and manufactures of wool, other than ready-made clothing; wagons and carts for the purposes of agriculture or of drayage; wood and manufactures of wood, or of wood and metal, except furniture, either upholstered or carved, and carriages; textile manufactures, made of a combination of wool, cotton, silk, or linen, or of any two or more of them, other than when ready-made clothing; harness and all manufactures of leather; starch; and tobacco, whether in leaf or manufactured.

ARTICLE III.

The evidence that articles proposed to be admitted into the ports of the United States of America, or the ports of the Hawaiian Islands, free of duty, under the first and second articles of this convention, are the growth, manufacture, or produce of the United States of America or of the Hawaiian Islands, respectively, shall be established under such rules and regulations and conditions for the protection of the revenue as the two governments may from time to time respectively prescribe.

ARTICLE IV.

No export duty or charges shall be imposed in the Hawaiian Islands, or in the United States, upon any of the articles proposed to be admitted into the ports of the United States or the ports of the Hawaiian Islands free of duty under the first and second articles of this convention. It is agreed, on the part of His Hawaiian Majesty, that, so long as this treaty shall remain in force, he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his dominions, or grant any special privilege or rights of use therein to any other power, state, or government, nor make any treaty by which any other nation shall obtain the same privileges, relative to the admission of any articles free of duty hereby secured to the United States.

ARTICLE V.

The present convention shall take effect as soon as it shall have been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and shall have been ratified and duly proclaimed on the part of the Government of the United States, but not until a law to carry it into operation shall have been passed by the Congress of the United States of America. Such assent having been given, and the ratifications of the convention having been exchanged as provided in article VI, the convention shall remain in force for seven years from the date at which it may come into operation; and, further, until the expiration of twelve months after either of the contracting parties shall give notice to the other of its wish to terminate the same, each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of seven years, or at any time thereafter.

ARTICLE VI.

The present convention shall be duly ratified, and the ratifications exchanged at Washington city, within eighteen months from the date hereof, or earlier, if possible.

In faith whereof the respective plenipotentiaries of the high contracting parties have signed this present convention, and have affixed thereto their respective seals.

Done in duplicate, at Washington, the thirtieth day of January, in the year of our Lord one thousand eight hundred and seventy-five.

[SEAL.] HAMILTON FISH.
[SEAL.] ELISHA H. ALLEN.
[SEAL.] HENRY A. P. CARTER.

And whereas the said convention, as amended, was ratified by ourselves on the 17th of April, 1875, and by His Excellency the President of the United States of America on 31st May, 1875, and the said ratifications were exchanged at the city of Washington June 3, 1875:

Now, therefore, we do proclaim and make public the same, to the end that it and every clause and article thereof may be observed and fulfilled with good faith by every person within our kingdom. And the said convention shall go into effect as soon as intelligence is received that the Government of the United States has made the necessary provisions for carrying it into operation.

In witness whereof we have hereunto set our hand and caused the seal of our kingdom to be affixed this 17th day of June, A. D. 1876.

[SEAL.] KALAKAUA, R.

By the King:

W. L. GREEN, *Minister of Foreign Affairs.*

HAYTI.

No. 168.

Mr. Bassett to Mr. Fish.

No. 402.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 12, 1875. (Received Nov. 26.)

SIR: Referring to my No. 399, of the 12th ultimo, which gave the particulars of the embarkation of the persons who were in refuge under our flag here from the 3rd of May until the 4th of October of this year, I have the honor to send you herewith inclosed a translation of an article which appeared in Le Moniteur of the 16th ultimo. Although the article is printed in the portion of that journal marked "non-official," it evidently emanates from official sources, and is intended, as will be seen, to place the government's consent to the embarkation of the refugees upon the ground of friendship and consideration for our Government. In the columns of another paper, Le Peuple, has also appeared a report of certain remarks of President Domingue at one of the customary "audiences" held at the palace every Sunday, placing that consent upon the ground of his friendship for President Grant.

I ought to be quite willing that this government should say whatever it pleases before its own people in justification of its conduct relative to the refugees; but I maintain the conviction which is expressed at the end of my No. 399, and which I have reached in spite of the most generous considerations for this government and people, that the embarkation would never have been assented to without the manifestation of firmness on our part in regard to that matter.

I am, &c.

EBENEZER D. BASSETT.

[Inclosure in No. 402—Translation.]

The persons named Boisrond Canal and Canal, jr., refugees at the American consulate, owing to events growing out of the attempted insurrection of the 1st of May last, have been by order of the government embarked on the English (American) ship Varnum (H.) Hill on the 2d (4th) of October instant.

The government, while respecting the right of asylum, had, notwithstanding, taken diplomatic steps before the Cabinet at Washington for the handing over of the above refugees to justice.

The Government at Washington, though ordering their minister resident at Port au Prince to deliver them over to Haytian justice, not being able to interfere in our interior affairs, (*ne pouvant s'immiscer dans nos affaires intérieures,*) had non-officially and constantly asked the government for a commutation in their favor.

It was to satisfy this desire manifested by a friendly power that the sentence of death pronounced against them by the judgment of the special court (*conseil*) of Port au Prince, dated July 6th of the present year, has been commuted to that of banishment for life.

No. 169.

Mr. Bassett to Mr. Fish.

No. 403.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, Nov. 12, 1875. (Received Nov. 26.)

SIR: I beg leave, most respectfully, to invite your attention to a proposition, which I herewith submit, relative to the modification or abolition of the practice which has until now existed in Hayti, and by which foreign representatives of every grade here have extended an asylum to citizens of the country whenever the latter have found themselves under arbitrary pursuit by the authorities, usually in times of public inquietude or in the midst of irregular proceedings on the part of the government in their regard.

It would seem as if the correspondence to which the case of General Boisrond Canal, recently a refugee under our flag here, gave rise, might indicate a disposition on the part of both our own Government and that of Hayti to act in some judicious way upon such a proposition. In his note to me of May 8, 1875, (see inclosure A to my No. 365, of the 19th of that month,) the Haytian minister of foreign affairs says that the view of his government is "that if the right of exterritoriality insures to the representatives of foreign powers the inviolability of their persons and residences, it does not acknowledge their power to give asylum, to and to protect any category of criminals (*catégorie de coupables*) belonging to the country where they are accredited." Again, Mr. Preston, Haytian minister plenipotentiary to the United States, in his note of August 14, 1875, to the Department, says that "he considers that the way is now prepared for the negotiations which his government has instructed him to open and pursue with that of the United States, with the view of bringing about the abolition of this practice, (of granting asylum,) which has been too long maintained in Hayti by the legations there established." And in his note of the 26th of the same month, to Mr. Cadwalader, Mr. Preston again argues against the right of asylum. In a word, this government, in its whole proceeding in regard to that case, (of Boisrond Canal,) has taken ground against the right of asylum. I know very well, however, that every government in Hayti, especially since the revolution of 1843, has desired to keep that so-called right open, for what reason it is easy to see, and even during the very time when Mr. Preston was writing his notes to the Department denouncing the right so-called, General Septimus Rameau, the head and front of this government, told me that he thought the so-called right ought to

be reserved for the necessities of those who had faithfully and patriotically served under a fallen government.

The views of the Department on the subject are not unknown. In your No. 236, of the 26th of August last, you distinctly inform me that my act of granting asylum to General Boisrond Canal and his brother "cannot be approved."

It is also stated in Mr. Cadwalader's note of August 6, 1875, to Mr. Preston, that this "act on his (my) part has not been approved by this Department, as it is not sanctioned by public law."

Mr. Cadwalader also says in that note that "it is quite probable, however, that when the present case (of Boisrond Canal) shall have been satisfactorily adjusted, this Department may be disposed to receive and consider any proposition which Hayti may make looking to the abolition by the several governments represented in that country of the practice of granting an asylum to refugees in their respective legations."

These views, so distinctly expressed by both governments, appear to me, whatever may be the real wishes of that to which I am accredited, to open the way for some judicious modification of the practice which has heretofore existed in Hayti of receiving refugees under foreign flags here. Mr. Cadwalader's statement seems, however, to leave the initiative to this government. That initiative, now that Boisrond Canal has been safely embarked, will not, as I think it likely, be taken. But a regularly-established government ought not to be considered a plaything; and it can have no just ground of dissatisfaction if it be taken at its repeated formal declarations on any given subject.

I therefore respectfully propose that authority be given me to act in concert with my colleagues in the view of modifying, that is to say, lessening in its, scope or of abolishing altogether, with the consent of our respective governments, the practice of receiving refugees under our respective flags in this country.

I make the proposition in these terms because the desire to this end, as shown above, has been fairly expressed by both our own Government and that of Hayti, and because, although I shall not feel authorized to receive refugees in the future, I think it might be an invidious distinction against us and our flag here if we alone were to renounce the practice formally while other powers just as formally continue it. I am aware, too, that there may be some difficulty in obtaining the concurrence of other powers to the abolition of the practice of granting sanctuary in their legations to political refugees in this country. I need only refer to their ready and prompt approvals of this practice whenever it has been acted upon by their representatives here, or more especially to the fact that during the administration of President Geffrard, M. Thouvenal wrote a note to the French legation here strongly instructing the then French chargé d'affaires that the custom of granting asylum here could not, in his view, be safely abolished.

I may refer further to the fact that only very recently I gained information of a dispatch addressed by the Earl of Derby to my colleague, Major Stuart, the British minister, dated August 31, 1875, and numbered 23, in which his lordship states that Her Majesty's government had frequently had under consideration the subject, and that while they have never yet been convinced that they ought to withdraw the so-called right from their legations in countries like Hayti, they nevertheless think it desirable to reduce its exercise to the narrowest possible limits, and to be circumspect as to the persons to whom it is extended.

I am, &c.,

EBENEZER D. BASSETT.

No. 170.

Mr. Bassett to Mr. Fish.

No. 414.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, Dec. 28, 1875. (Received Jan. 10, 1876.)

SIR: Referring to my No. 406, of the 12th ultimo, in which mention was made of a supposed contemplated revolutionary movement against the existing authorities of this government, I have the honor to represent that the aspect of the condition of things in that regard is such as to give some continued inquietude to those authorities, and that, in my opinion, an outbreak of the kind supposed to be contemplated may possibly take place in the near future.

It has been confidentially reported to me, from sources worthy of confidence, that money in considerable amounts, for revolutionary purposes, has been secretly collected here, some of it even from merchants and others who pretend to be friendly to the government. I have also been informed that Ex-Minister Ovide Cameau has been sent by the Haytian exiles in Jamaica to the United States, there to seek the means of forwarding their alleged revolutionary schemes; and I am inclined to believe that there prevails, justly or unjustly, throughout the republic an almost unprecedented dissatisfaction, growing chiefly out of the conduct, in a public sense, of Minister Rameau, who, it is alleged, inspires and controls nearly every public act and proceeding in his own interests; who has, so it is further alleged, plunged the country into enormous debts; keeps faith with none except so far as it may serve his own selfish purposes; does not pay the government employés or any other honest government obligation, while he allows favorites to become rich at the public expense.

It is claimed, in fine, that Minister Rameau is a bold, intriguing, utterly unscrupulous usurper, whose conduct of affairs ought not to be tolerated by the country, and against whom it is useless for any one to say anything to his uncle, the President. I have further understood it to be the opinion of those unfriendly to the government, among them leading foreign merchants, who keep up an outward appearance of friendship toward the authorities, that, owing to the puerile, discreditable, financial policy and situation created by Minister Rameau, the government will almost fall of itself at the end of the coffee crop, or, at least, then find itself in very grave embarrassment. This opinion, I may say, has been expressed to me by these persons themselves.

The Haytian exiles, in Jamaica, are, many of them, men of ability, who, besides, know perfectly their own country. And it has been intimated to me that they have received promises of support from Cubans there and elsewhere in exile, these latter having become somewhat embittered against Domingue's government from the facts growing out of the case of the Laura Pride, outlined in my No. 391 of the 9th of September last.

There are also other facts and allegations of like character to those just enumerated, which appear to tend toward an early revolutionary attempt, and which from time to time come within my information from both the friends of the government and those unfriendly to it. But I have not conceived it to be ordinarily the duty of a diplomatic agent to foment, foster, or encourage, on the one hand, schemes or intrigues of revolution in the country of his official residence, nor, on the other hand, to act the part of an informer or spy, to apprise the authorities of that country of facts and occurrences of which knowledge may come to him as a disinterested, neutral, independent person.

But movement is not confined to the one party in this situation. Under Rameau's inspiration the country has, it is asserted, been filled with spies in his interest. These spies, it is said, track every suspected person here, and swarm among the exiles in Jamaica and their friends wherever they can be reached.

It may be supposed that he is informed to some extent of their every movement and purpose, and in consequence he has taken all precaution to guard against their supposed contemplated revolutionary attempt. Even the President said in an open manner lately, that if these men made an attempt to overthrow him by violence and failed, he would cause them all to be exterminated.

But the politics of Hayti may be considered as a system of violence, and violence generally brings its own reward. By violence Geffrard overthrew Soulouque, and in turn was overthrown by violence by Salnave. Then violence overthrew Salnave, and by violence Saget took his seat at the head of the government. By many it was and is considered that Domingue came to power by an irregularity, backed by then impending violence.

By arbitrary means, intrigue, brute force, or violence, almost as a rule here, men come to public places, maintain their power, and carry on the government. Need we wonder if violence be not yet entirely ended among this peculiar people?

I am, &c.,

EBENEZER D. BASSETT.

No. 171.

Mr. Bassett to Mr. Fish.

No. 431.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, February 17, 1876. (Received March 6.)

SIR: Inviting reference to my No. 414, of the 28th of December last, which touched upon the then existing apprehension of a contemplated revolutionary movement against the authorities of this government, I have the honor to state that what is delineated in that dispatch remains essentially unchanged.

Although, contrary to what has lately been stated in the American and English journals, there has as yet been no actual appeal to arms in any part of this island covered by Domingue's authority, yet general inquietude and anxiety prevail, and every one appears, not without reason, to be expecting the natural result, in a country like Hayti, of a deep-seated and almost universal indignation against the usurpations and arbitrary conduct of Minister Rameau, who seems to act as if the whole public treasury, the whole country, and every one in it, belonged to him personally. He does not appear to be capable of being restricted in his mad career by any possible argument or persuasion.

The President himself, who is just now absent from the capital on a tour through the north of the republic, equally with the ministers of state, other than Rameau, seems entirely under the control of this one man in every essential particular and detail.

Some of the ministers of state have themselves told me, what has been sufficiently well understood for a long time, that they had no freedom of action either in their respective departments or in cabinet meetings; that everything must be left to Minister Rameau's pleasure. It is

by no superior mental force that Rameau exercises his authority, but men fear for their own personal security under his tyrannical sway. Ministers remain in the cabinet, and there suffer themselves to be made simple scape goats, to cover the technical responsibility of Minister Rameau in the government's policy, entirely dictated by himself, merely because of a fear of Rameau's displeasure. No similar state of affairs has ever before existed in this country since the days of Christophe and Dessalines, not even under the farcical empire of Soulouque. To an American it seems almost inconceivable. But we are all bound to respect facts; and sometimes I am almost inclined to think, from undeniable facts, that Rameau is quite beside himself.

This condition of affairs cannot, in my opinion, possibly continue indefinitely. Therefore, I may re-affirm my conviction that some sort of an armed movement against the existing government of Hayti cannot be far distant. I have even heard that the 26th instant has been agreed upon by those opposed to Domingue's administration as the day upon which they will make an armed protest—the only remedy left against Rameau's usurpation.

In anticipation of some hostile movement of that character, my colleagues of France, Great Britain, Spain, and Germany have requested the presence in these waters of national vessels of their respective governments. The two former have already received response to their requests by the actual presence in this harbor of men-of-war of their governments. Indeed the actual public situation seems so imminent that, I feel warranted in suggesting that if there be a national vessel of our Government within easy proximity to this port, her commander be requested to touch here at an early day.

I am, &c.,

EBENEZER D. BASSETT.

No. 172.

Mr. Bassett to Mr. Fish.

No. 450.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, April 27, 1876. (Received May 25.)

SIR: On the 17th instant I had the honor to send you a telegram via Kingston, Jamacia, in these words, namely:

HAYTI, *April* 17.

HAMILTON FISH,
State Department, Washington.

Revolution triumphant. Domingue refugee on French war vessel. Rameau and Lorquet shot. Revolutionary committee in charge of affairs. Better spirit toward foreigners.

BASSETT.

The present dispatch is designed to outline somewhat in detail the occurrences which resulted in the facts stated in my telegram.

In my No. 440, of the 25th ultimo, I gave in brief a statement of the then actual condition of public affairs, predicting Domingue's overthrow as a logical consequence of the almost universal sentiment of the country against Mr. Minister Rameau's usurpations and tyrannical rule.

The situation then, as given in this statement, was, on the one hand, Domingue and Rameau in actual power, breathing vengeance against all opposed to them and confident of their ability to quell every attempt

against their sway; on the other hand, there was a formidable insurrection at Jacmel, another in the south at Petit Frou, a nascent spirit of revolt in other localities, and, more than all, a settled conviction of the country against the detested Rameau. Thousands of men, gathered from every quarter, had been sent forward under the government's most trusted generals, to crush the insurgents by energetic action and overwhelming numbers. The uprising at Petit Frou was to be put down by a single sweep of a wing of the army in its march on Jacmel; the latter place was to be reduced in a combined attack by land and by sea, and every citizen who dared even to express an opinion on the affairs of his own country, if that opinion was not in laudation of Domingue and Rameau, was to be silenced with an unsparing hand.

But alas for men whose hopes are based on injustice! The insurgents at Petit Frou, inspired by the settled conviction against Rameau, were not put down by the government forces. And when the combined attack was made, on the 5th instant, against Jacmel, government artillery and musketry had to confront the same inspiration, and its land-forces, under command of the minister of war, were driven back and scattered in every direction, while the bombardment from the sea was a consummate farce, the Haytian admiral having the wisdom to keep at a respectful distance from the insurgent-guns, which he knew had determined men behind them. So that the attack by government troops upon that city was a complete and humiliating failure to them. An order then went forward from Domingue's own hand charging his forces to push to the last extremity the attempt to reduce the city. "Reduce it to ashes; cause it to disappear, and spare no one found in hostility to the government," was the burden of the almost frantic order.

But revolt had taken root too deeply, and once begun spread rapidly. The admiral, the minister of war, and the minister of the interior lost heart, if they ever had any, in the government cause. They dropped over to the insurgents, the admiral saying in a letter to General Boisrond Canal that he (the admiral) supposed he might keep up a semblance of blockade and bombardment upon Jacmel until the arrival of more definite news from "the movement" in other parts of the republic.

Meantime the north had caught the spirit of revolt. On the 1st instant a small place near Cape Haitien called Frou pronounced against the government, and on the 4th instant the important city of Cape Haïtien itself joined the revolution. So universal and deep-seated was the determination to rid the country of Rameau's tyranny that all the central places on that part of the republic fell into line with the revolution, and the movement soon swept the whole north without the firing of a single gun. Men left their business, cultivators quitted their farms, and merchants gave their money to swell the advancing hosts. Every town on the line welcomed the revolutionists with open arms and warm hearts. And as fast as the former gave adhesion to the cause a revolutionary committee chosen by the prominent citizens took temporary charge of affairs, and in most instances these committees at once reaffirmed respect for foreigners and declared null and void the offensive license-decree referred to in my No. 428 of February 17, 1876.

When on the 12th instant St. Marc pronounced for the revolution, the government sent its ablest available general, Lorquet, at the head of a small force, to confront the onward march of the revolutionary army. But when he reached L'Arcahaie he too joined the revolution. Even yet Rameau was blinded by passion, rage, and tyranny. He gave it out that he would resist to the last; that he would, if his necessities demanded it, put Port au Prince to fire and sword and fight over its

ashes; that he would, if too closely pushed by revolution against his authority, teach the whites and mulattoes of the city that the blood of 1804 was still in vigor. There is no mistaking the fact that there was great fear that he would attempt to carry out these and others of his savage threats. I knew by confidential communication from the commander of the arsenal, General Anselme Prophète, on the 11th instant, that he had received something like an order inspired by Rameau to put a slow match to that dreadful place at the last moment, and I am led to believe that orders or intimations had been given in the view of letting loose upon this and other cities the semi-civilized blacks of the mountains at that moment. I am told also, and it seems to be generally believed here, that an order was actually given to some of Rameau's favorite black regiments to attack and cut down in the streets or houses every white or colored person that they could find, in case the revolutionists arrived at the gates of the city. It is a painful duty to record these statements, but dreadful as they are they seem to be accepted as correct by this community, and to be corroborated by known facts.

The 13th and the 14th instants were days of harrowing suspense to the people of Port au Prince. The diplomatic corps were then and for some time before had been in daily conference at my office, and we had free and frequent consultation with the commanders of the foreign men-of-war in the harbor. We determined of course to stand firmly by our posts, and in the interests of humanity faithfully to fulfill every duty which the moral influence of our official positions imposed upon us. We kept before the President constantly the leading ideas of Christian civilization, and allowed no act like the inquieting in their homes of the families of the insurgents, the shooting of prisoners, or the putting of women in prison and in torturing irons on account of their political sympathies, to pass without an informal remonstrance from us; remonstrance firm and solid, but always conveyed in the most carefully-chosen and delicate language and manner. It is generally believed here that our unwavering line of conduct in this regard, the presence of foreign men-of-war in these waters, and the wisdom and discretion, but well-known determination, of their commanders to protect foreigners and their interests from illegal and unwarranted violence, actually prevented contemplated acts of savagery.

The morning of the 15th instant brought us news that General Lorquet was marching upon the city at the head of several thousand revolutionary troops, against whom the government had no adequate forces to oppose. The most critical moment seemed to have arrived. The diplomatic corps met at my office, and decided to give to the President intimation of our knowledge of the critical situation, to tender to him in the most delicate manner any service that we could render to him personally, (which of course meant that if he wished to embark for foreign territory, as several of his predecessors had done under circumstances less pressing than those then existing, we would aid him in that sense,) and to express to him our now firmly fixed expectation that in any event the usages of civilization would be observed. The President did not seem fully to realize the situation, and received our representations in a manner not entirely satisfactory to us.

The French minister afterward sought conference with his naval commander, while the British minister and myself conferred with Captain Barrett, of our war-steamer Plymouth, in the view of completing arrangements for a firm defense of the rights and interests of our countrymen in any extremity that might arise. We all then decided to await the events to be developed during the day. But while we were return-

ing from our conferences we received from the President, to our surprise, a pressing request to call at the palace. It was now about one o'clock in the afternoon. As we were leaving the wharf, we noticed that boxes of specie, taken from the government money-vaults, were being hurriedly brought to the landing and put on board a schooner flying the Dutch flag, but really a Haitian vessel. This attempt of Rameau to take away from the country the only funds which his misrule and almost open robbery of the government resources had left, at the very moment when everybody else saw that he must fall within a few hours, created the utmost indignation and excitement. A mob, of indescribable appearance, broke open the iron doors of the building from which the money was being taken, smashed in the iron safes, opened the vaults, and nearly murdered some Americans who had, innocently on their part, but, as I believe, maliciously on his part, aided Rameau in taking out the specie. Another mob gathered on the wharf, broke open the boxes containing the money, and what they could not carry off they flung into the sea. All these proceedings were the work of a few moments only.

Meantime, I and my colleagues of France, Great Britain, Spain, and Santo Domingo hurried to the palace, to respond by our presence to the President's request to see us there. We found it full of military officers and full of excitement. The President made it known to us that he had decided to abdicate, and that he wished us to take a letter in that sense to the revolutionary chieftains, praying for an armistice of twenty-four hours, in order to allow him time to hand over the executive authority to the cabinet according to the constitution. We readily accepted the charge, and started off on horseback to meet the army in march upon the capital. As we approached the Portail St. Joseph, which leads from the city into the plain of the Cul de Sac, we encountered a body of several hundred men, evidently posted there to oppose the entrance of the revolutionary forces and to prevent others from going out to communicate with them. They were almost wild with excitement, and I felt for a moment that we were in personal danger. But the officers recognized the British minister and myself, and cried out to their men, "Don't fire." As soon as the ranks saw who we were, they swung their hats in the air, and sent up deafening shouts of "Vive les ministres d'Amérique et de l'Angleterre! C'est vous qui avez conservé la société. À bas Domingue! Vive la révolution!" After riding several miles without meeting the revolutionary army, which we now knew to be farther from the city than we had been led to believe at the palace, we came to a halt, and decided that, in view of probable events in the city during the afternoon, it would be advisable for some of us to be there. Accordingly, the French minister and the Spanish chargé d'affaires turned back, an act which subsequent events proved to be a wise one, while the British minister and myself kept on at a rapid pace until we met General Lorquet, delivered to him the President's letter, obtained a satisfactory guarantee for the requested armistice, and then hurried back to the city.

On our arrival here we found Domingue in refuge under the French flag, Rameau dead, and the city actually without any recognized governing authority. It appeared that at about half past three o'clock in the afternoon the whole city had thrown itself into a paroxysm of excitement and indignation against Rameau. Young men and old, stimulated and encouraged by the women, some of whom, among them the sister of General Brice, who was killed, under Rameau's order, May 1, 1875, actually shouldered muskets and went forward to the contest, took the offensive, and marched in front of and around the palace and before the

residences of government partisans in different parts of the city. The palace was soon deserted by every one except Domingue, Rameau, and their wives. The son of the General M. P. Pierre, who was shot in a most brutal manner May 1, 1875, under Rameau's orders, (see my No. 364, of May 8, 1875,) seemed to be in command of the body of young men gathered in the vicinity of the palace. At his appearance, the officers upon whom Domingue and Rameau were counting for their last defense, reversed their arms in token of submission to young Pierre and his comrades. A pressing request was then sent out by Domingue and Rameau asking for the immediate presence of the French and Spanish representatives, who at once came to the spot, and, at a glance taking in the situation, asked for a guard to accompany them and the presidential family to the French legation. The response was: "A guard for Domingue and the ladies, yes; for Rameau, never!" My colleagues, however, concluded to undertake the then perilous task of escorting to the French legation, about 350 yards distant, the four persons of the presidential family above indicated. They thereupon, about half past four o'clock, came out from the palace arm in arm with them in such a way that Rameau was between the two foreign representatives. Yells and shouts against Rameau greeted his appearance, shots were fired off in the air, and when the party had reached a point within about fifty yards of the French legation, the mob, finding it impossible to rescue Rameau from the determined protection of my colleagues without possible injury to them, tripped up his feet, causing him to fall to the ground and in an instant his body was riddled with bullets. Domingue also received a blow upon the head from the butt of a musket and a bayonet-thrust in the side. The late General Brice's sister, above alluded to, dipped her handkerchief in Rameau's blood, and held it up to the crowd, crying out that her brother's blood was now avenged.

The President and Mesdames Domingue and Rameau reached the French legation in safety, and were, without further difficulty or opposition, taken on board the French war-steamer Le Sané. A day or two afterwards they sailed on that vessel for St. Thomas, notwithstanding Domingue's somewhat absurd request to be taken to Aux Cayes, and then to Curaçoa.

Thus fell, without a single shot fired in their defense after the critical moment arrived, Domingue and Rameau, whose administration of this government has, notwithstanding fair promises at the beginning, been characterized by violence, fraud, and hostility to foreigners. Domingue himself was not regarded as essentially a bad man, though trained to the severities of military life. His knowledge of the world, of history, and men proved to be quite limited. Personally, he always appeared to be, and I must do him the justice to say that I believe that he was, at heart, honest and patriotic, though under Rameau's inspiration he sometimes showed that he was capable of acts not in accord with moderation or Christian civilization. He was certainly a man of pleasing and gentlemanly manners. But Rameau, in spite of his apparent intelligence, was a wicked, prejudiced, avaricious, conceited, revengeful, thoroughly dishonest man. He was, I imagine, never known to keep his word or pay an honest debt or to forgive even an imagined slight or offense. He was by nature a tyrant, and was almost without a redeeming trait in his character. And yet he had gained such perfect control over his uncle, Domingue, that the latter became a complete nullity in the conduct of affairs, and left everything to Rameau, who, in his unlimited control of affairs, showed forth alike his evil nature and disposition and his capacity for mischief and wickedness. I venture to predict that the

memory of Septimus Rameau will, for an indefinite period, be held in execration by the Haitian people.

From the death of Rameau until the next morning the city was without any responsible government. Yet so great and sincere was the relief felt among all classes at the overthrow of Domingue and Rameau that almost no excesses of lawlessness were manifested, except that on the morning of the 16th instant a mob gathered around the house of General Lorquet, who had entered the city with a small guard of mounted men about 9 o'clock, was attacked and he himself was shot, and except that the palace and Lorquet's residence were ransacked by the mob. The shooting of Lorquet is thought to have been inspired by personal enemies of the general and to have had no particular political significance.

On that same morning a revolutionary committee was selected to control affairs until the formation of a provisional government. Two days later General Boisrond Canal, with about one hundred others of the Haitian exiles from Jamaica, landed here at the wharf. He was there met by thousands of his fellow-countrymen and almost carried bodily by enthusiastic admirers through some of the principal streets of the city to the Catholic cathedral, where a *Te Deum* was chanted on the occasion. I happened to ride in the vicinity of the cathedral in coming to town just as General Canal was emerging therefrom, when he and some of the multitude recognized me, and in an instant, as if with one impulse, the assembled thousands sent up deafening and prolonged cheers for the American minister and the American flag, which were echoed by the bands of music and by the swinging of hats and the waving of handkerchiefs in the air for several seconds.

On the 23d instant a provisional government was named, composed of Canal and four others. The following day the inauguration ceremonies took place, at which were present all the foreign representatives and a large concourse of citizens and foreigners.

I am happy to say that the conduct of both the revolutionary committee and of the provisional government thus far has been commendable. No lists of persons for exile or persecution have yet been issued, as is only too usual on violent changes of government in this country. Only persons who are technically responsible for Domingue's administration, and others whom pretty well founded or widely-spread notoriety designates as having been concerned in peculations of the public funds, have been declared "under accusation," to be tried regularly before the proper tribunals. Elections have been ordered in each commune, with the view to an early assembling of the Corps Législatif and the establishment of a definitive government. The accomplishment of these ends will probably require about six weeks. The almost universal voice seems now to demand that Boisrond Canal shall be called to the Presidency, and the indications now appear to be that he will be called to that high office with the almost unbounded enthusiasm of his countrymen.

While I am far from entertaining the belief that Hayti is to be created into a paradise by the overthrow of Domingue and Rameau, yet I am quite clear in the opinion that no government can now possibly be chosen here which will not be a marked improvement upon the one just fallen, and that the Haitian people will hesitate a long time before they again allow such a man as Rameau to assume sway over them and their liberties.

I am, &c.,

EBENEZER D. BASSETT.

No. 173.

Mr. Bassett to Mr. Fish.

No. 454.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 31, 1876. (Received June 16.)

SIR: Referring to that portion of my No. 450, of the 27th ultimo, which announced to you the formation of a provisional government in Hayti, I have the honor to inform you that that government is still in function; that, under the provisions of the constitution of 1867, elections have been already held in every commune of the republic for members of the chamber of deputies, of whom it is supposed that a majority will favor the candidature of Boisrond Canal for the Presidency; that the electors of the republic are still voting for the choice of communal officers; that the chamber of deputies has been convoked for the 12th of June, proximo; that, on the opening of that body in its proper character, it will proceed to the election of the senators, who, in connection with the chamber, will elect the President of Hayti; and that, in spite of some rather insignificant intrigues put on foot by disappointed Dominguists and by a few over-ambitious young persons in the north and in the south, perfect tranquillity and a good disposition seem to prevail at present in this republic.

I am, &c.,

EBENEZER D. BASSETT.

No. 174.

Mr. Bassett to Mr. Fish.

No. 457.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, June 21, 1876. (Received July 6.)

SIR: Referring to my No. 448, of the 10th of April last, which invited your attention to a dispatch addressed to this legation by the then Haytian minister of foreign affairs, to notify us of the intention of the Domingue government to terminate our treaty of November 3, 1864, according to the forty-second article of that instrument, I have the honor to state that since the overthrow of Domingue I have availed myself of convenient opportunities to bring the subject to the consideration of the friends and members of the existing provisional government, and that I have found, as I intimated in my said No. 448 that I probably would find, the proposed termination of the treaty quite out of harmony with the views of all this people whom I have sounded upon the subject, including the minister of foreign affairs, all his colleagues, and all the members of the provisional government.

The minister, however, told me that the provisional government, very properly considering itself only a temporary necessity, had decided to refer to its successor all matters which involved anything more than the mere routine working of the government machinery.

I send herewith inclosed the note which he wrote to me the 10th instant on the subject. It will be observed that in this note the minister distinctly declares that his "government does not admit the preceding administration's view" in regard to the termination of the treaty, and promises to lay the question before the Corps Législatif. It may, however, be doubted whether this last-named step will be deemed necessary or expedient when once a definitive government shall have been established.

I shall not fail to give you early information of any further proceeding or expression of sentiment on the part of the authorities of this government which may come within my knowledge on the subject.

I am, &c.,

EBENEZER D. BASSETT.

[Inclosure in No. 457.—Translation.]

Mr. Price to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, June 10, 1876.

Mr. MINISTER: I have the honor to return to you under this cover the letter which you communicated to me, and which my predecessor, Mr. Excellent, addressed to you, in order to give notice, through you, to the Government of the United States of America, of the intention of the government of Ex-President Domingue to terminate the treaty (*de mettre fin au traité*) existing between Hayti and the Union.

I am happy to inform you that my government does not admit the preceding administration's view in this regard. (*Je suis heureux de vous informer que mon gouvernement n'admet pas à cet égard la manière de voir de la précédente administration.*) Nevertheless it will not fail to provoke a decision of the Corps Législatif upon the question. (*Toutefois, il ne manquera pas de provoquer une décision du Corps Législatif sur la question.*)

Be pleased to accept, Mr. Minister, the assurances of my very high consideration.

H. PRICE.

Mr. E. D. BASSETT,
Minister Resident of the United States.

No. 175.

Mr. Bassett to Mr. Fish.

No. 463.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, July 29, 1876. (Received August 9.)

SIR: I have the honor to represent that on July the 4th instant all my colleagues, without exception, hoisted their national flags; the ships in the harbor, among them an English man-of-war and a large English merchant-steamer of the Liverpool line, were dressed in bunting; the Haytian flag was displayed from the government buildings; the provisional government, of its own motion, sent me a note of felicitation, all my colleagues, the Americans domiciled or sojourning here, several government officials and distinguished citizens and foreigners, called to pay their respects at the legation, where the prosperity of the United States and the health of President Grant were proposed. Several persons kept "open house" during the day and evening, displaying the American colors, paintings of Washington, President Grant, Frederick Douglas, and the signing of the great Declaration; all inhonor of that great day, the one hundredth anniversary of the Declaration of American Independence.

I am, &c.,

EBENEZER D. BASSETT.

[Inclosure in No. 463.—Translation.]

LIBERTY. EQUALITY. FRATERNITY.

REPUBLIC OF HAYTI.

No. 753.] PORT AU PRINCE, *July* 4, 1876,
(73d Year of Independence.)

The provisional government to Mr. E. D. Bassett, minister resident of the United States in Hayti.

Mr. MINISTER RESIDENT: On the occasion of this date of the 4th of July, marking the one hundredth anniversary of the independence of the great nation so worthily represented here by you, the provisional government has decided to address to you its most ardent felicitations.

Be pleased to accept, Mr. Minister Resident, with our good wishes for the preservation of the Great Republic, the expression of our highest consideration.

DR. L. AUDAIN.
M. ARNOUX.
L. ZAINS, AÎNÉ.

No. 176.

Mr. Bassett to Mr. Fish.

No. 464.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, July 29, 1876. (Received August 9.)

SIR: Referring to that part of my No. 454, of May 31, 1876, which noted the facts that elections for members of the Chamber of Deputies were then in progress, and that that body would, when organized, proceed first to the election of senators, and then, in connection with the senate, to the choice of a person to be President of Hayti, I have the honor to state that the Chamber of Deputies having organized on the 20th ultimo, and having terminated its election of senators on the 5th instant, the two houses met in national assembly on the 17th instant and proceeded to the election of a chief of state. On the first ballot there were 96 votes cast, of which General Boisrond Canal received 62, Mr. Boyer Bazelais 31, and there were 3 scattering votes. But as the law requires that a candidate must receive an absolute majority of two-thirds of all the votes cast in order to be elected, the assembly proceeded to the second ballot, which resulted in 68 votes for General Canal, and 28 for Mr. Bazelais. General Boisrond Canal was thereupon declared duly elected President of Hayti. The term of presidential office here is, as with us, four years. But the date fixed for its commencement by the constitution of 1867 is the 15th of May. Therefore the constitutional end of President Canal's term of office is fixed for the 15th of May, 1880.

President Canal took the oath of office on the 19th instant and entered at once upon the discharge of its duties.

My colleagues and myself were invited to attend both the election and the inauguration of the President. They were all present, but I was sick in bed on those and several subsequent days.

There are some facts prominently connected with President Canal's elevation to office which seem to merit an observation or two. And first, I may say that in no previous election of any character in Hayti had there ever been any approach to the freedom of expression and choice allowed to the electors in this canvass. No one of them was, as far as I know or believe, in any way intimidated or driven or unduly influenced to vote or act against his own simple free will in the matter. This had never before been the case in Hayti.

The partisans of Mr. Bazelais worked openly and above board for their candidate up to the very moment of taking the second and final vote in the National Assembly on the 17th instant.

Another fact worthy of remark, because it is also new to this country, is that General Canal strenuously refused to make the least effort for his election, and on all occasions appeared simply as a citizen without rank or military title.

I can hardly resist the temptation to point to General Canal's elevation to the chief magistracy of his country by the free choice of his fellow-citizens as a confirmation of the views constantly expressed of him in my dispatches to you last year, when he was a refugee under our flag here, and as another illustration of the great truth that all men, especially those clothed with position and power as Domingue and Rameau were a year ago, must be not only just, but also generous, in their dealings with and tender in their judgments of their fellow-men. If Domingue and Rameau had been observant of this great principle, General Canal would probably never have allowed himself to be even a candidate for the presidency of Hayti. But what a lesson! Boisrond Canal, President of Hayti, and probably the most popular citizen in his country, while the very Domingue and Rameau, who clamored most wrongfully and shamefully for his life through five long months in 1875, setting at defiance all fairness and justice, are driven from power in disgrace by the very violence to which they appealed—the one sleeping in a dishonored grave, and the other in his old age eating his bread in the same exile to which he in the day of his power so mercilessly consigned others.

President Canal, the grandson of Boisrond Tonnerre, who was the author of the declaration of Haytian independence, is a mulatto about forty-four years of age, in the full vigor of perfect health, of handsome face, erect carriage, and manly form. It is almost impossible to look into his handsome manly face without seeing there the index of an honest heart, a brave and generous character. A slight but constantly recurring impediment in his speech mars, but does not cover from view, his correct knowledge of his own language. He has a limited knowlege of English, to which, however, he only resorts in case of necessity. Of a genial, happy temperament, in his manners modest, without affectation or forwardness, honest and frank in all his intercourse with his fellow-men, he is personally very popular with all classes here, beloved alike by the blacks, the whites, and that ambitious passionate class the aristocratic mulattoes. He has never been an aspirant for any public office or command whatever, and I do not think he has ever knowingly wronged a single human being or has a single personal enemy. Except when in the active military service of his country or acting as senator under the Saget administration, he has been a quiet planter, working with his own hands among his hundreds of employés, for whose religious and secular education he established a chapel and a school on his large plantation in the commune of La Coupe. In character he is the complete opposite of Rameau. He has hardly a trace of avariciousness or vindictiveness or cruelty or low cunning or illiberality toward foreigners or prejudice against any class of persons in his nature.

Whether he will be able to retrieve his country from the truly deplorable situation into which Rameau's rule plunged it, or whether in the midst of the difficulties, vexations, and temptations with which his new position will surround him, he will succeed in maintaining and infusing into his administration his own manly character, it is perhaps altogether too early yet to determine. It is certain, however, that neither he nor any other man can in the short space of four years materially

change the fixed habits of this people or create this country into a paradise. He, like others, may find that circumstances will control him in spite of himself more than he can control them; for it is a fact that a man is worked on by what he himself works on. The address to the people and the army of Hayti, which he delivered in terse and elegant French on the occasion of his inauguration and which I send herewith inclosed, intelligently sets forth his good purposes, and is, I think, a truthful representation of his patriotic inspirations.

In further proof of his disinterested patriotism it should be stated that, immediately after his election, he sent for the chief of the party opposed to his election, Mr. Boyer Bazelais, and offered him the portfolio of finance, commerce, and foreign affairs, the highest appointment within the executive control. Mr. Bazelais declined the proffered influential appointment. But this step is remarkable as the only one of the kind that has ever been taken by a President of Hayti. The rule of former Presidents has always been rather to belittle, disgrace, or even to persecute political opponents. President Canal has also called around him a ministry whose members are known for their personal honor and integrity. His disposition toward foreigners will undoubtedly prove to be of the most friendly character.

But he has at best a severer task upon him than any of his predecessors have ever had. Indeed, how, in view of the real habits of this people, he can find the means to face the engagements or meet the actual necessities of his country, so as to satisfy all at home and abroad who have legitimate interests in Hayti, I confess myself unable just now to foresee.

I am, &c.,

EBENEZER D. BASSETT.

[Inclosure in No. 464.—Translation.]

Liberty—Equality—Fraternity.

REPUBLIC OF HAYTI.

ADDRESS TO THE PEOPLE AND THE ARMY.

Boisrond Canal, President of Hayti.

FELLOW-CITIZENS: Engrave upon your memory the unfortunate date of the 20th of May, 1874; what happened on that day of sorrow will serve as a lesson for the future!

The infamous *coup d'état*, long premeditated by persons struck with universal reprobation, received its consummation, and as the fatal result, a man whose dire celebrity was not unknown to any, ascended the presidential seat on the 11th of June.

This man's twenty-two months' administration, twenty-two months of a burdensome oppression stained at nearly each step with filthiness and blood, have removed from us all the liberties which we had conquered during thirty years of trials and struggles. They have exhausted the most vital forces of the nation and plunged our miserable country in such a deplorable situation that superhuman efforts only can save it.

The suspension of the laws, the dissolution of the legislative body, our constitution torn in fragments and cast to the wind, accusations in horror, dread imposed on all by shootings and proscriptions unparalleled in our history, unjust duties suppressing production, illegal additional taxes bearing with all their weight on the laboring classes, all the public services suffering, immoral loans negotiated on all sides, our agriculture, our commerce panting, threatened by imminent ruin; such is the doleful and, in the mean while, the incomplete history of these last two years.

A revolution only could cast off the danger and close the pit opened beneath our feet.

These appeals to arms, too often reiterated among us, become periodical, as it can be

said, are fatal and even mortal for the young nations; but do they not become a necessity when all the principles of public order are forgotten, all liberties suppressed, all laws violated, when the reign of good pleasure is made to take the place of lawful rule, and when the press and the tribune, those mighty organs of the people, dare not be heard in vindication of the most solemn rights?

Forty days were sufficient to sweep from the country's soil this pretended colossus and the multitude of persons in his service and pay.

The provisional government that sprang up from this revolution has ended its glorious mandate, and the National Assembly, freely chosen by the people, has just called me to direct for four years the destinies of the country.

Haytians, all my brethren and friends: I am proud of the suffrages of that grand assembly, proud of the work of reparation which is intrusted to me, without dissimulating the difficulties of the task which it imposes upon me.

To substitute the rule of laws for that of arbitrary will; to place again upon its pedestal the constitution of 1867; to re-organize, within the limits of our needs and our financial resources, our army and our navy; to make our agriculture and commerce to flourish; to modify our custom-house duties; to revive the sources of public fortune; to create new ones; to introduce order, honesty, and a strict economy in the management of our affairs; to lift up our credit and prestige abroad; to put upon an honorable and satisfactory basis our relations with the different civilized powers of the globe; to spread education among the people; to moralize the masses; to repair, in fine, the two years' ruins of the fallen government: these are the things that the National Assembly demands me to undertake in conferring upon me the office of President of the republic. What an immense task; but also what glory attached to the fulfillment even of a part of this gigantic enterprise. The intelligence, activity, and perseverance of a single person are not sufficient in this supreme moment; I would infallibly fail if I were not powerfully seconded and sustained. Hence I make appeal to all for their aid. I call to my support all the intelligence, all the capacity, all the light, all the men of feeling and heart, and showing the naked wounds of the country, struggling in the convulsions of death, I say to them, let us unite and save our common mother.

Haytians, my brethren and friends, you will not be deaf to my voice.

In the fulfillment of my task, I cannot fail to count, in a particular manner, upon the mighty and efficacious assistance of the great bodies of state. They will aid me by their counsel, by their experience; and from the similarity of our views, of our ideas and sentiments, will come forth the welfare of our most unfortunate country.

According to the terms of the constitution and of the decree of the national assembly, I will descend from the presidential seat on the 15th of May, 1880.

In transmitting the authority to him who shall be freely chosen without suggestion by the legislative body, I will feel even happy if order and public peace shall have been definitely acclimated in our country, too often disturbed by internal dissensions. I will feel very proud if a race of men, of which the political aptitudes are contested, presents to the whole world the spectacle of a free people understanding its rights and duties, loving and honoring labor, and directing all its aspiration toward progress. I will think myself to have merited the national acknowledgment, if, instead of the paralyzed body that is remitted to me, I hand it over a nation with all the elements of a strong vitality.

Fellow-citizens, such is the object to which I aspire and toward which all my efforts shall tend.

Permit me to flatter myself that they will be crowned with success, and that the day when I shall become one of the humble citizens of Hayti, your loyal representatives, among whom the noblest sentiments of justice and impartiality always shine forth, will openly declare in your name that, during the exercise of my mandate, I fulfilled and executed in the measure of possibility the vast programme of ameliorations demanded by the country. The highest degree of satisfaction which a public servant can aim at in his ambition, is that of conquering the approbation of his constituents.

I earnestly desire this glorious title.

Long live the republic; long live the constitution; long live the union of the Haytian family.

Given at the national palace of Port au Prince July 19, 1876, in the seventy-third year of independence.

BOISROND CANAL.

No. 177.

Mr. Bassett to Mr. Fish.

No. 473.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, September 16, 1876. (Received October 7.)

SIR: Inviting your reference to my No. 457 of the 21st of June last, which related to a proposed termination of our treaty with Hayti, I have the honor to state that, on the 18th of August ultimo, I addressed a note (inclosure 1) to the Haytian minister of foreign affairs, calling his attention to the dispatch of April 4, 1876, (see inclosure A to my No. 448 of the 10th of that month,) from his department, and to another dispatch of June 10, 1876, (see inclosure A to my said No. 457,) from his immediate predecessor, the former notifying me of this government's wish and purpose to terminate our treaty, and the latter denying that such was either the wish or the purpose of the then existing provisional government, and asking him to be pleased, now that a definitive government is established, to give me explicit and reliable information on the subject.

To my note I have just now received the minister's acknowledgment, (inclosure 2,) from which it will be seen that he not only announces to me that "the disposition of the actual government of the republic (of Hayti) is to continue the observance of the treaty," and at the same time states that it is prepared to conform itself to the forty-second article of the treaty, but also expresses a readiness to defer to our wishes in the matter of any further treaty provisions.

I may observe that the minister's dispatch, as well as inclosure A to my No. 457, seems fully to confirm the idea advanced in my No. 448, seems also to be satisfactory as to this government's desire for the continuance of the treaty, and to open the way for the concluding and signing of the consular convention authorized by your No. 122 of October 18, 1872.

I am, &c.,

EBENEZER D. BASSETT.

[Inclosure 1 in No. 473.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 18, 1876.

SIR: A dispatch addressed to me on the 4th of April last by the then secretary of state, Mr. Excellent, gave me formal notice of the intention of the government of Hayti to terminate the treaty concluded between the United States and Hayti on the 3d of November, 1864, according to the terms of the 42d article thereof. Upon the overthrow of the Domingue administration and the establishment of the provisional government, I brought the dispatch to the attention of your immediate predecessor, Mr. H. Price, who wrote me a note dated June 10, 1876, in which the idea is conveyed to me that the provisional government was not in favor of the proposed termination of the treaty.

These two communications, which I have already forwarded to my government, seem to leave the matter in an unsettled condition. I would therefore thank you, Mr. Minister, if you will have the goodness, now that a definite government is fully established, to convey to me authentic intelligence of the positive disposition of your government relative to the subject.

I avail myself of this occasion to salute you, Mr. Minister, with my most distinguished consideration.

EBENEZER D. BASSETT.

Hon. L. ETHEART,
Secretary of State.

[Inclosure 2 in No. 473.—Translation.]

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, September 16, 1876.

Mr. MINISTER: I received the letter which you did me the honor to address to me on the 18th of August ultimo, to communicate to me the one which the then secretary of state, Mr. Excellent, wrote to you on the 4th of April last, notifying you of the intention of the preceding government to terminate the treaty concluded between Hayti and the United States, and also the one of the Counsellor H. Price, dated the 10th of June last, informing you of the contrary intention of the provisional government.

By reason of this difference of view, which leaves, as you truly say, the question in an undecided condition, I have the honor to announce to you, in reply to your demand, that the disposition of the actual government of the republic is to continue the observance of the treaty, and that in all respects it will strictly conform itself to the terms of the forty-second article.

Meanwhile, Mr. Minister, if the government of the Union manifests the desire to arrive at new conventions, it will be easy, I believe, as soon as you shall have made these communications to me, to determine between ourselves the necessary bases, so as to come to a good end.

Be pleased to accept, Mr. Minister, the new assurances of my very high consideration.

The Secretary of Foreign Affairs,

L. ETHEART.

Mr. E. D. BASSETT,
Minister Resident of the United States, Port au Prince.

No. 178.

Mr. Preston to Mr. Fish.

[Translation.]

LEGATION OF HAYTI,
Washington, October 25, 1875. (Received October 26.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor, in obedience to the instructions of his government, to transmit to the honorable Secretary of State of the United States the memorandum which is inclosed with this note, and which the President of Hayti causes to be communicated at the same time to each of the powers represented at Port au Prince.

The undersigned thinks it proper for him, on transmitting this memorandum, to make a few observations which his government has instructed him to submit to the particular attention of the honorable Secretary of State of the United States.

The undersigned will not remind the Hon. Hamilton Fish of the complications to which the asylum granted by Mr. Bassett to certain Haytians might have given rise. Inasmuch as these difficulties have been settled by a common agreement and by means of mutual concessions, the undersigned does not think proper to recur to them now; it seems to him indispensable, however, to allude at least to the occurrences which have just taken place, with a view to presenting a few observations with regard to the influence which this so-called right of asylum may have upon the political destinies of the nations among which it is exercised.

An attempt to create an insurrection was made in Hayti on the 1st of May. The government was on its guard, and easily frustrated the guilty design. Nevertheless, certain officers of the army refused to obey the orders which were given them; they endeavored to incite the population of the plains to rebel. Subsequently, when they became aware that the energy of the government and the good sense of the people had sufficed to frustrate their plans, when they saw themselves surrounded, a

fight took place between them and the armed force. In this *melée* Boisrond Canal killed two soldiers, and then, in the midst of the struggle, escaped with three of his companions, and, with them, sought refuge at the residence of Mr. Bassett.

The honorable Secretary of State, on learning of these facts, considered, from the very outset, their grave consequences. He saw how the legitimate authority of the government of Hayti was thus baffled. The honorable Secretary of State knows what penalties the public law of the United States provides for the crime of treason. Would the United States, if they were dealing with one of their citizens charged with this crime, suffer a third power to interfere, under any pretext whatever, for the purpose of opposing their will? They would very properly regard any attempt of this kind as a blow struck at their sovereignty. And yet among the people of the United States, where veneration for constitutional liberty has so long prevailed, such an act could not produce the fatal effects which it might in other countries, where the spirit of revolution has long existed, and where it opposes its bad influence to the regular development of free institutions. This, however, is not the gravest aspect presented by the Boisrond Canal affair.

The honorable Secretary of State knows the danger to which republican forms of government are particularly exposed in a portion of this hemisphere. The Spanish language has furnished the sorrowful word which designates it. Military "pronunciamentos" are the plague-spot which threatens the future of certain political communities. The rigorous maintenance of discipline in the army is the only possible remedy for this evil. Yet the asylum granted to officers may paralyze the arms of the government in such a manner as to render the force of authority utterly nugatory.

Finally, the undersigned would refer to his note of the 26th of August last, in which he laid before the Department of State of the United States the facts which his government had brought to his knowledge, and expressed the fear that not only was the American legation at Port au Prince serving as an asylum for conspirators, but that the latter, being thus secured against punishment, would continue to foment a criminal agitation in the country by means of correspondence, which the head of the legation seemed unable to prevent; so that in this way also the diplomatic asylum imperiled the rights of sovereignty.

The undersigned knows how much such acts, when they are known to the honorable Secretary of State, are disapproved by him. If the United States have protected from the vengeance of certain great powers political refugees who had come to seek an asylum on the soil of the American Republic, and who there freely expressed their sentiments, and if this right of asylum has always been defended with vigor and in so honorable a manner by the Federal Government, the latter has never yet permitted refugees to make the soil of the United States the base of operations against another power; it is almost useless here to call to mind the firmness with which the Washington Cabinet has always acted toward the Cuban insurgents, for instance, who have taken refuge principally in New York, and the jealous care which it has exercised in order to prevent or frustrate all their armed attempts against the Spanish colony of Cuba.

These facts are now known to the whole world, which has done full justice to the good faith and energy of the Federal Government. It is, therefore, to these sentiments of international justice, and to that respect for the law of nations of which the Secretary of State of the United States has given so many honorable evidences, that the government of

Hayti appeals under the present circumstances. Is it possible for the right of asylum to be exercised at an American legation, when dangers to public tranquillity result therefrom like those to which conspirators thus protected can cause it to be exposed? What! certain refugees, after having violated the laws of their country, and having escaped from all legal proceedings, maintain communication with their confederates outside, and endeavor to appeal to the spirit of revolution; and, meanwhile, are they to be protected by the flag which covers their asylum, and, in fact, to become inviolable? The dangers of such a situation are so evident as to render it unnecessary to dwell longer upon this subject.

At the same time, as the undersigned has just remarked, such an exercise of the right of asylum in the republics of the New World imperils the stability of those republican institutions to the development of which the Government of the United States attaches so high a value; those institutions cannot be truly developed in those countries unless public tranquillity be assured there. Now, if this purpose is to be accomplished, the spirit of intrigue and of revolution must yield to liberty regulated by law; but how can this be, if every conspirator knows that, under all circumstances, he can be protected from the consequences of his acts, however inconsiderate and guilty they may be, and that, after having disturbed the public peace, he has nothing to dread, provided he can take refuge under the flag of a foreign legation?

Such a state of affairs is so well described by a minister of the United States, who was accredited some years since to one of the republics of the Pacific, that it is impossible not to borrow his words:

"The practice of giving asylum," said General Hovey, then minister of the United States to Peru, in a dispatch to Mr. Seward, "has been and still is a prolific source of revolutions in, and the instability of, the South American republics. The traitor, who would for his own ambition steep his country in blood, feels assured that if he fails in his rebellion he has only to flee to the house of some minister, and that there he will find a refuge beyond the reach of justice. Thus encouraged, and the high crime of treason varnished over with the soft name of 'political offense,' he launches recklessly into his ambitious schemes, and the country is kept in continual commotion." (Diplomatic Correspondence published in 1868, Part II, pp. 737, 738.)

Thus, the exercise of the right of asylum imperils even the most essential attributes of the sovereignty of the state. In the second place, it permits malcontents to organize the most criminal enterprises at their leisure, since they stand in no fear of the law. Finally, it contributes, wherever it is permitted, to the maintenance of a state of continual disturbance, which retards or prevents the establishment of stable and fixed governments.

Such are the considerations which the undersigned desired specially to present to the honorable Secretary of State. He now asks his kind attention to the accompanying memorandum.

The undersigned avails himself of this occasion to renew to the honorable Secretary of State the assurances of his highest consideration.

STEPHEN PRESTON.

[Inclosure.—Translation.]

LEGATION OF HAYTI,
Washington, October 25, 1875.

MEMORANDUM.—With a view to strengthening the free institutions which the people of Hayti have intrusted to his care, the President of Hayti thinks it his duty to propose to the Government of the United States to give its consent to the abolition of the right

of asylum which has hitherto been exercised by the heads of legations accredited to the cabinet of Port au Prince.

The President of the republic of Hayti has been struck by the annoying and sometimes even fatal consequences which the exercise of this so-called right has produced; he knows too well what international conflicts it brings about, and what internal troubles it causes, to hesitate any longer to ask the powers represented at Port au Prince to come to an understanding with him, with a view to suppressing, by an agreement mutually concerted, this dangerous custom.

The President of Hayti will here present a few considerations which appear to him fully to justify the request which he presents.

In the first place, what is the right of asylum? On what principles is it based? Does the law of nations authorize its existence?

The undersigned will here remark that there is not a single writer, from Grotius to Bluntschli, who does not consider it an abuse.

The celebrated jurist Merlin, for instance, expresses himself on the subject in the following terms:

"It is seen, then," says he, "that the inviolability of a public minister's residence is in a manner consecrated by the unanimous wish and the general consent of nations.

"In whose favor, however, is this inviolability established? The very reasons on which it is based prove that it really exists only in favor of the minister and his suite.

"He cannot, therefore, avail himself of this inviolability to convert his house into an asylum for the protection of criminals from the penalties which they have deserved." * * * And farther on Merlin adds: "What, then, is the proper way to end all disputes with regard to the right of asylum? It is to return to the general principle which we have laid down; it is to acknowledge, positively, that this so-called right is only an abuse, an outrage against the sovereign authority, and that no consideration should cause it to be tolerated." (See Merlin, Répertoire de Jurisprudence, vol. 20, Vo. Ministre Public, pp. 308 *et seq.*)

The undersigned, abstaining from presenting a number of quotations from the best authors, all of which would confirm Merlin's opinion, next quotes Mr. Bluntschli, whose authority is now everywhere recognized.

"The dwelling of a person enjoying exterritoriality," says he, "cannot serve as an asylum to persons pursued by justice. It is the duty of such a person to refuse to permit fugitives of all kinds to enter his dwelling, and if they have effected an entrance to deliver them up to the competent authorities." (Droit International, paragraph 151.)

Farther on, Mr. Bluntschli adds: "There is no longer any right of asylum attached to the residence of an envoy. On the contrary, an envoy is bound to surrender to the competent authorities any person pursued by the police or the judicial authorities of the country who has taken refuge at his house, or to permit search to be made for the fugitive in his house." (See Bluntschli, Droit International, paragraph 200.)

The undersigned will now call the attention of the Government of the United States to the declarations made by it on several occasions.

On the 25th of February, 1868, Mr. Seward, then Secretary of State, wrote as follows to Gen. Alvin P. Hovey, minister of the United States in Peru: "I observe that in your note to Mr. Pacheco (then minister for foreign affairs of Peru) you have taken these positions, viz: That Peru is entitled to all the rights and privileges of a Christian nation, and as such should be placed precisely in the position of the United States, France, England, and other Christian countries, and that the doctrine of asylum cannot be properly claimed or enforced in Peru, unless it be in exceptional cases recognized by the universal law of nations; that as soon as a legal charge of crime is made, whether political or not, you hold it to be the duty of the minister in whose legation an offending party has taken refuge to leave him without interference to the authorities demanding his arrest. * * * * These positions are altogether approved." (Mr. Seward to General A. P. Hovey; Diplomatic Correspondence published in 1868, Part II, p. 764.)

And the Hon. Mr. Fish has given his adhesion to the same doctrine.

On the 16th of December, 1869, the Hon. Hamilton Fish wrote the following in relation to the right of asylum to Mr. Bassett, who was then and has ever since been minister of the United States in Hayti: "It has never been sanctioned by the Department, which, however, appreciates those impulses of humanity which make it difficult to reject such appeals for refuge." Finally, the Hon. Secretary of State added: "While you are not required to expel those who may have sought refuge in the legation, you will give them to understand that your Government cannot, on that account, assume any responsibility for them, and especially cannot sanction any resistance by you to their arrest by the authorities for the time being." (See Diplomatic Correspondence for 1871, pp. 695, 696.)

It would be easy to multiply here the precedents which are furnished by the contemporary diplomatic history of the United States.

The proposition for the abolition of the right of asylum which is made by the government of Hayti has nothing in it that is not agreeable to the precedents established

by the United States as well as by the majority of the powers of Europe. In 1867 all the nations represented in Peru agreed to abolish the right of diplomatic asylum there.*

At the commencement of that discussion the representative of the United States alone sustained the demands of Peru; and it was at a conference of the diplomatic corps held at the ministry of foreign relations that the American minister addressed the members of the conference who still opposed the reform, to the following effect:

General Hovey said that, in his judgment, we have no right to fix new rules on the subject of international law; that if a special custom existed in Peru, it could be a matter of discussion between the Peruvian government and the foreign ministers; * * that in the United States, in France, and England there was no discussion on this question of asylum; and that as according to the principle of common equity what we do not wish done unto us we ought not to do unto others, he thought no right existed on the part of the United States, England, or France to demand of Peru the privilege of asylum. (See Diplomatic Correspondence published in 1868, page 741, Part II.)

The result is known. The powers represented in Peru accepted the declaration of the minister of foreign affairs of that republic, viz, "that the Peruvian government will not hereafter recognize diplomatic asylum as it has been practiced up to the present time in Peru, but solely within the limits assigned to it by the law of nations, which are sufficient to solve the exceptional cases which might arise in this matter." (See ibid., pp. 742-43.)

Such is the precedent furnished to the government of Hayti by the guide whom it thinks it ought to follow under the present circumstances. Like Peru, it knows with what difficulties and dangers the exercise of the right of asylum is fraught as regards its domestic tranquillity. It knows how far the impunity which can be thus secured by conspirators who are determined to disturb the public peace encourages their project, and it considers this practice as one of the causes which most retard the regular development of its national institutions.

In view of this situation, the gravity of which has been demonstrated by recent events, it thinks that the question might be settled in the following manner:

1. The right of asylum should be exercised in none of the cases in which crimes and offenses against the common law are concerned. It should be understood that a person charged with or condemned for any crime or offense of this kind could, under no pretext, find a refuge at any of the legations accredited to the government of Hayti.

2. As regards political crimes or offenses for which provision is made in the Haytian penal code, the rule laid down in Article I should be observed also.

3. Nevertheless, certain altogether exceptional cases may arise—those for which a reservation was made at the time when the question of asylum was settled in Peru—in which the crime or offense is not defined by the penal law of the country, and for such altogether exceptional cases diplomatic asylum might be tolerated. This is a question which it is almost impossible to settle in advance, and must be specially regulated in each particular case.

Nevertheless, notwithstanding the exceptional cases just referred to, it should be understood—

A. That any minister granting asylum should be obliged, within two days, to furnish the name or names of the refugee or refugees to the government of Hayti, together with a statement of the reasons which induced him to grant the asylum.

B. Any minister granting asylum should cause the refugee to be disarmed, and use every means in his power to prevent him from holding any communication with parties outside.

C. This having been done, the minister who had received the refugee or refugees should confer with the government of Hayti for the purpose of inquiring whether it could consent to allow the refugee or refugees to leave the territory of the republic, either secretly or with a passport.

D. In case the government of Hayti should refuse to consent to an arrangement of this kind, and should persist in its refusal with a view to maintaining its sovereign rights to their full extent, the refugee or refugees should at once be delivered up to justice; but the minister who had granted the asylum might still use his influence to secure, should there be any reason to do so, an ultimate commutation of the penalty.

Such is the settlement which the President of Hayti deems a proper one for him to propose to the powers represented at Port au Prince, and he flatters himself that they will regard this as a fresh evidence of the firmness of the resolve which he has formed to devote the time during which his constitutional power is to last to strengthening the institutions which have been adopted by the people of Hayti.

STEPHEN PRESTON.

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* Spain being at that time at war with Peru, could not be represented there.

No. 179.

Mr. Fish to Mr. Preston.

DEPARTMENT OF STATE,
Washington, December 11, 1875.

SIR: The undersigned, Secretary of State of the United States, had the honor duly to receive the note of Mr. Preston, envoy extraordinary and minister plenipotentiary of the republic of Hayti, of the 25th October last. That note is accompanied by a memorandum on the subject of asylum offered by diplomatic agents to refugees in Hayti. Mr. Preston says that the memorandum has also been communicated to other governments who are represented at Port au Prince, and asks the assent of this Government to the articles of that paper. Mr. Preston's communication has been occasioned, he says, by the recent grant of an asylum by Mr. Bassett, United States minister to Hayti, to Mr. Boisrond Canal and his brother, charged with conspiracy against the government of that republic: That step on the part of Mr. Bassett, Mr. Preston is well aware, has been disposed of by an agreement signed by himself and the undersigned, in pursuance of which the refugees are understood to have left the country.

The right to grant asylum to fugitives is one of the still open questions of public law. The practice, however, has been to tolerate the exercise of that right, not only in American countries of Spanish origin, but in Spain itself, as well as in Hayti. This practice, however, has never addressed itself to the full favor of this Government. In withholding approval of it, we have been actuated by respect for consistency.

It is not probable that the practice would ever be attempted in this country, or, if attempted, could be tolerated, and the discountenance which the United States extends to the practice is upon the principle of doing to others as we would they should do unto us, so that when we acknowledge the sovereignty of a foreign state by concluding treaties with and by accrediting diplomatic officers to its government, we impliedly, at least, acknowledge it as a political equal, and we claim to extend to all the political prerogatives and immunities which we may claim for ourselves.

We sincerely desire that it may be universally recognized that foreign legations shall nowhere be made a harbor for persons either charged with crimes or who may fear that such a charge may be made.

Prominent among the reasons for objection on our part to giving asylum in a legation, especially in the governments to the south of us, is that such a practice obviously tends to the encouragement of offenses for which asylum may be desired.

There is cause to believe that the instability of the governments in countries where the practice has been tolerated may in a great degree be imputed to such toleration. For this reason, if for none other, the Government of the United States, which is one of law and order and of constitutional observance, desires to extend no encouragement to a practice which it believes to be calculated to promote and encourage revolutionary movements and ambitious plottings.

Instances, too, have occurred where asylum, having been granted with impunity, has been grossly abused to the defeat of justice, not only against political offenders, but also against persons charged with infamous crimes. Such abuses are plainly incompatible with the stability and welfare of governments, and of society itself.

Temptations sufficient to lead to an abuse of the practice cannot fail

to abound in most persons who may exercise it. Such temptations are incident to human nature, and in countries where political revolutions are of frequent occurrence one must be gifted with uncommon self-denial to be wholly free from their influences.

It is believed, however, to be sound policy not to expose a minister in a foreign country to the embarrassments attendant upon the practice. Still, this Government is not, by itself, and independently of all others, disposed to absolutely prohibit its diplomatic representatives abroad from granting asylum in every case in which application therefor may be made.

We do not, however, withhold from them our views of the practice, and will expect that, if they do exercise the prerogative, it will be done under their own responsibility to their own Government. We would prefer, therefore, not formally to assent to the propositions contained in the memorandum above referred to, without ascertaining the views of the other governments concerned in regard to them.

Some, at least, of those propositions appear to be fair enough; but, as the circumstances of cases in which asylum may be granted greatly vary, it would, in the opinion of the undersigned, be preferable, until an understanding and an approach to accord of views as to the future practice in this regard can be had by the other powers, that every such case should be treated according to its merits, rather than that we should be fettered in advance by rules which may be found not to be practically applicable or useful.

The undersigned avails, &c.,

HAMILTON FISH.

JAPAN.

No. 180.

Mr. Bingham to Mr. Fish.

No. 270.] UNITED STATES LEGATION,
Tokei, Japan, September 22, 1875. (Received October 26.)

SIR: I have the honor to acquaint you that on the 20th instant I received from Thomas B. Van Buren, esq., a dispatch in which he stated that an American vessel had just arrived in the port of Kanagawa having "on board one of the crew (an Italian subject) in irons, charged with a murderous assault upon the mate," and asking upon this statement my opinion whether he (the consul-general) has jurisdiction to try the man for the offense, a copy of which dispatch is herewith inclosed, (inclosure No. 1.)

On the 21st instant, in reply to this dispatch, I addressed to the consul-general a communication stating that the question of jurisdiction in the case stated was one for judicial decision, and expressing doubts whether I was authorized to give to the consul-general an opinion in advance upon a judicial question upon which he was likely to be called to pass officially; but if I was authorized to express an opinion upon the question presented, it was needful that I should be advised whether the vessel was in the naval or merchant service of the United States; when and where, and for what term, the seaman charged was shipped; and when and where the offense charged was committed, and especially

whether it was committed on the high seas; a copy of which communication I have the honor to inclose herewith, (inclosure No. 2.)

On the 21st instant the consul-general, in reply to my communication, addressed me a dispatch, a copy of which is herewith inclosed, (inclosure No. 3.)

You will observe that the consul-general in this reply states that the vessel is a merchant-vessel named "William Van Namee," which sailed from New York, (without stating when;) that the accused was shipped with the rest of the crew for a term of two years, (without stating at what time he was shipped;) and that the alleged crime was committed upon the high seas.

Assuming that the accused was a seaman duly engaged on the vessel, as the fact seems to be from the general statement of Mr. Van Buren, it seems clear that the crime charged, if committed on the high seas, is not within the consular jurisdiction of Yokohama, but within the exclusive jurisdiction of the United States courts, inasmuch as it is a crime within the act of March 3, 1825, (section 5346, Revised Statutes,) it being an assault upon the high seas and on board an American vessel, with intent to perpetrate a felony, to wit, to kill the mate of the vessel. The accused, in my opinion, can only be tried for the crime charged in the appropriate district of the United States by a United States court.

Neither the treaty with Japan nor the law of the United States confers jurisdiction on American ministers or consuls in Japan to try any citizen or seaman of the United States for crimes or offenses other than such as may have been committed in Japan, and therefore there is no color of excuse for supposing that either a United States minister or consul in Japan has jurisdiction to try any person for crimes committed on board an American vessel and upon the high seas.

You will notice that the consul-general in his dispatch of the 21st instant states that in this case his difficulty is, whether he has jurisdiction "to try for offenses any persons but citizens of the United States," and that he has "failed in securing the instructions of the Department of State on the subject."

The consul-general follows this statement by informing me that he supposed I would give him my impressions upon the question of jurisdiction in the case, and if, in my opinion, he had not jurisdiction, that I would advise him whether it was his duty "to return the man to the United States for trial, or turn him over to the Italian consul." Surely the laws of the United States are as supreme upon every American deck on the high seas as they are in the District of Columbia, and there is no more warrant for the transfer, by order of the consul-general, of an Italian subject, or *any other person*, committing a crime on board an American vessel and upon the high seas, in violation of American law, to the jurisdiction of an Italian consul in Japan, than there is for a like transfer by order of a United States consul of an "Italian subject" to an Italian consul to be by him tried for a crime against law committed in Washington City.

Our law above recited (see section 5346 Revised Statutes) holds every person of whatever nativity to answer to the United States courts for an assault committed on another upon the high seas "on board any vessel belonging in whole or in part to the United States, or any citizen thereof, * * * with intent to perpetrate a felony." The subject of every country becomes the subject for the time being of American law whenever he voluntarily enters the naval or merchant service of the United States, or voluntarily sails upon an American vessel, or sojourns in American territory.

As the consul-general has once before sent an American seaman to an English court for trial, and now suggests that he wishes to know if he shall "turn over" this American seaman, charged with a crime committed on board an American vessel upon the high seas, to an Italian consul in Japan, to enforce upon him the penalties of American law, I have concluded that it was my duty to say to the consul-general that he has no power so to deal with such offenders against our laws, or to so dispose of an "Italian subject" who, on the high seas, on board an American vessel, it is alleged has committed an assault on another with intent to perpetrate murder, and that, in my opinion, the officers of the vessel should carry the person so charged to the United States and turn him over for trial to the United States court of the appropriate district.

Having received in your No. 144 the expression of your approval of the ground assumed by me in my correspondence with Sir Harry S. Parkes in relation to McCoudrill, an American seaman sent by the consul-general for trial to the English court in Japan, it seemed to me that I should make reply as above indicated to the consul-general's dispatch of the 21st, as to his power to turn over this alleged offender to the Italian consul to answer for a crime committed upon the high seas on board an American vessel, against the life of an American citizen and in violation of American law. I have to-day addressed a note as above indicated to the consul-general, a copy of which I herewith inclose, (inclosure No. 4.)

Hoping that my action may command your approval, and requesting instructions upon the question presented,

I have, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 270.]

Mr. Van Buren to Mr. Bingham.

No. 1129.] UNITED STATES CONSULATE-GENERAL,
Kanagawa, (Yokohama,) Japan, September 20, 1875.

SIR: An American vessel has just arrived here having on board one of the crew (an *Italian subject*) in irons, charged with murderous assault upon the mate, committed few weeks since. Will you kindly give me your opinion, at your very earliest convenience, whether I have any jurisdiction to try the man for the offense, and, if not, what my duty is in the premises?

I have, &c.,

THOMAS B. VAN BUREN.

Hon. JOHN A. BINGHAM,
United States Minister, Tokio.

[Inclosure 2 in No. 270.]

Mr. Bingham to Mr. Van Buren.

No. 195.] UNITED STATES LEGATION,
Tokei, September 21, 1875.

SIR: Your letter of the 20th instant is received, in which you state that an American vessel just arrived in the port of Kanagawa has on board "one of the crew (an *Italian subject*) in irons, charged with a murderous assault upon the mate, committed a few weeks since," and in reference to which you desire my opinion whether you have jurisdiction to try the seaman charged with the said crime. The question of jurisdiction in the case stated is as much a judicial question as any other question which can arise in the trial of the alleged offender. I am not aware of any law or regulation which

confers upon me authority to give United States consuls opinions in advance upon any judicial question which may arise before them officially.

But if satisfied that I could properly express an opinion in advance on the question presented in your note, it would be needful that I should know, first, whether the vessel is in the naval or merchant service of the United States; second, where and when and for what term the seaman charged was shipped or engaged; third, when and where the offense charged was committed; if on land, in what place or territory; if on board the vessel, was the offense committed on the high seas or any arm of the sea, or any port or other place within the jurisdiction of any foreign state or sovereignty, within the admiralty and maritime jurisdiction of the United States, or without the jurisdiction of any particular state.

These questions necessarily arise under our statutes, as you doubtless know, in determining the jurisdiction in the case you present.

I am, &c.,

JNO. A. BINGHAM.

THOMAS B. VAN BUREN, Esq.,
United States Consul General, Kanagawa.

[Inclosure 3 in No. 270.]

Mr. Van Buren to Mr. Bingham.

No. 1141.] UNITED STATES CONSULATE-GENERAL,
Kanagawa, (Yokohama,) Japan, September 21, 1875.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 195, in reply to my letter of the 20th, requesting your advice as to my jurisdiction to try an Italian subject, a seaman on board an American vessel lately arrived here, charged with a murderous assault upon the mate of the vessel.

The vessel is a merchant-vessel, named the William Van Namee, which sailed from the port of New York for "Angier for orders, thence to such other ports and places in the Pacific and Indian Oceans, the East Indies, China, the China seas, and in Europe, as the master may direct, and back."

The accused was shipped with the rest of the crew for a term of two years. The alleged crime was committed upon the high seas.

My difficulty in the case arises from my doubts as to my jurisdiction to try for offenses any persons but "citizens of the United States," as conferred upon me by the treaties with Japan and the laws of the United States passed to carry such treaties into effect.

I have failed thus far in securing the instructions of the Department of State on the subject, and I supposed you would kindly give me your impressions upon the question of my jurisdiction; and second, if I had no jurisdiction, whether it was my duty to return the man to the United States for trial or turn him over to the Italian consul. I wish simply to know my duty, and to do it.

If you feel disinclined to give me your advice, I must, of course, act without it.

I am, &c.,

THOMAS B. VAN BUREN.

Hon. JOHN A. BINGHAM.
United States Minister, &c., Tokei.

[Inclosure 4 in No. 270.]

Mr. Bingham to Mr. Van Buren.

No. 196.] UNITED STATES LEGATION,
Tokei, September 22, 1875.

SIR: In reply to your dispatch of the 21st instant, (No. 1141,) I have to say that, as you therein state facts not before communicated and essential to the formation of an opinion upon the question now presented by you in relation to the disposition that should be made of the American seaman charged with an assault with intent to kill, committed by him on board an American vessel and upon the high seas, it seems to me unquestionably the law that all statutory crimes committed by any person, of whatever nativity, upon the high seas and on board an American vessel, can only be tried in the United States, and by a United States court, and that the person charged in this case should be taken by the officers of the vessel who are cognizant of the crime alleged, without delay, to the United States, and they should carry their record with them.

I am constrained to make this reply, because of my instructions and because you notify me in your dispatch of the 21st that you wish to know if you have not jurisdiction to try the offender, whether it is your duty "to return the man to the United States for trial, or turn him over to the Italian consul."

Italian subjects by nativity, shipping as American seamen, during their term of service are the subjects of American law, and for crimes committed by them against American law, during such service, upon the high seas and on board an American vessel, must be held to answer only in the United States and to the United States courts.

I am, &c.,

JNO. A. BINGHAM.

THOMAS B. VAN BUREN, Esq.,
United States Consul-General, Kanagawa.

No. 181.

Mr. Bingham to Mr. Fish.

No. 274.] UNITED STATES LEGATION,
Tokei, Japan, October 6, 1875. (Received November 9.)

SIR: It is with regret that I acquaint you that by public rumor in the press, and from private sources, I learn that war may be declared by Japan against Corea.

It appears from what has transpired to the public that a Japanese man-of-war was engaged in sounding off the coast of Corea and within its waters, and while so engaged was fired upon by a Corean fort and disabled. After retiring for repairs the Japanese vessel returned, attacked and took the Corean fort and captured its guns, some thirty in number, burned the village adjacent thereto, and returned to Nagasaki to await orders. Considering the relations of Corea and China, it seems to me, in the event of war between Japan and Corea, it would be proper to declare a strict neutrality touching both the powers as within the provision of the act of June 22, 1860, section 4090, Revised Statutes, treating both as powers with whom the United States are at peace.

Should the fact reach you by telegram of a declaration of war or the commencement of actual hostilities between the two countries, I pray to be advised at once if the views herein expressed as to my duties in the premises meet the approval of the Department.

I have, &c.,

JNO. A. BINGHAM.

No. 182.

Mr. Fish to Mr. Bingham.

No. 183.] DEPARTMENT OF STATE,
Washington, October 28, 1875.

SIR: Your dispatch No. 270, dated 22d of September last, with inclosures, is received. It relates to an Italian subject, one of the crew of the "William Van Namee," an American ship, who committed a murderous assault on the mate of the ship on the high seas. The Van Namee put into Yokohama with the prisoner in irons. Mr. Van Buren, the consul-general, inquires of you whether he as consul has jurisdiction of the case and can try the offender; and, if not, whether he shall send him to the United States for trial or turn him over to the Italian consul.

You reply to Mr. Van Buren that the consul has not jurisdiction of the case, and that he has no authority to turn the prisoner over to the Italian consul; that the offender is amenable to the laws of the United States, and properly triable in the courts of the United States in the district into which he may be first brought.

The advice given by you to Mr. Van Buren is approved, it being in strict accordance with law, precedent, and the invariable ruling of the Department.

I am, &c.,

HAMILTON FISH.

No. 183.

Mr. Bingham to Mr. Fish.

No. 303.] UNITED STATES LEGATION,
Tokei, Japan, December 4, 1875. (Received January 5, 1876.)

SIR: On the 29th ultimo, I was present by invitation at the inauguration by Her Majesty, the Empress of Japan, of a normal school for the education of Japanese girls. The edifice for this school is a large and elegant structure recently erected in this city.

On the occasion referred to Her Majesty, the Empress, attended by His Excellency Mr. Sanjo, prime minister of the empire, His Excellency Mr. Okubo, minister of the interior, also by officers of the imperial household, and in the presence of many persons, including about eighty pupils of the school, read an address in the Japanese language, a translation of which, as published in the Japan Daily Herald of the 1st instant, I have the honor to inclose.

I also inclose the congratulatory addresses of the superintendent of the school, Mr. Nakamura Massanawo, and of Mr. Tanaka, vice minister of education, as published in the Japan Weekly Mail of the 4th instant.

The establishment of this institution, at the instance and largely by patronage, as I am advised, of Her Majesty, may be considered an event of great significance in the East, and, if maintained, will doubtless contribute most effectively to the moral and intellectual elevation of the women of this empire.

By this beneficent action Her Majesty has acquired an additional title to the respect of mankind and the gratitude of her people.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure.]

[Extract from the Japan Daily Herald.]

Address of Her Majesty the Empress at the opening of the Tokei normal school.

My joy was very great last year on learning the decision for the establishment of an institution of this nature. To-day the wish that I have so often expressed has been realized. The building is finished, and the opening has taken place. I venture to hope that this great event will be the epoch of a new source of happiness for the entire empire.

No. 184.

Mr. Bingham to Mr. Fish.

No. 304.] UNITED STATES LEGATION,
Tokei, Japan, December 7, 1875. (Received Jan. 5, 1876.)

SIR: Referring to my No. 151, of date November 19, 1874, inclosing new hunting regulations and a protocol for a change of the treaty as to the trial of all foreign persons for offenses against the provisions thereof, I have now the honor to acquaint you that the general regulations so proposed by the Japanese government met the approval of all the foreign representatives, that the protocol was by each referred to his own government, and does not seem to be acceptable to either; that the minister of foreign affairs waives the demand for a new tribunal to try offenders, but refuses to allow hunting licenses to foreign persons unless the foreign representatives will agree that all fines adjudged by the foreign consuls, and by them collected of foreigners for offending against the hunting regulations, be paid into the Japanese treasury.

Under existing laws and regulations I could not assent to this demand of his excellency the minister for foreign affairs, and a like decision was arrived at by my colleagues.

I have endeavored to persuade Mr. Terashima that, all the foreign representatives having now for the first time recognized the right of his government to prescribe general hunting regulations, and the duty of the foreign consuls to enforce obedience to the same on the part of their respective countrymen in Japan, he should not insist on the fines collected of foreigners being paid into the Japanese treasury, for the reason that they are of small amount, and will not pay the cost incurred in the enforcement by the foreign consuls of the Japanese law.

The costs are so trifling, that I would suggest that it might be well, as to this law, to consent that fines collected by our consuls in Japan should be accounted for to the Japanese government.

Something, it seems to me, should be accorded to these people.

The matter is respectfully submitted for your consideration.

I have, &c.,

JNO. A. BINGHAM.

No. 185.

Mr. Fish to Mr. Bingham.

No. 200.] DEPARTMENT OF STATE,
Washington, January 20, 1876.

SIR: Your dispatch of the 18th of November last, No. 291, in relation to the right of the municipal council of Nagasaki to maintain actions in the consular court of the United States against American citizens for liabilities accruing on account of non-observance of municipal ordinances by the latter has been received.

It appears from your dispatch and the inclosures accompanying it that the council referred to is a body composed of foreign consuls and prominent foreigners of different nationalities, resident in what is known as the "foreign quarter" in Nagasaki, that it owes its existence and creation to the voluntary action of the foreign population, or at least to that portion of the foreign population who come under the denomination

of "land-renters," and that the regulations or ordinances of this municipal council are confined within the legislative limits of the preservation of the peace, morals, and good order of the community.

These objects are clearly within the scope of the legislative functions ordinarily pertaining to municipal corporations, and the licensing of public house or places of public entertainment and resort is a very common exercise of the power of such corporations.

You refer to your dispatch No. 228, of the 20th of May, 1875, in which you forward a copy of the Nagasaki regulations. Upon examination it is found that the correspondence of which that dispatch forms a part, related to the power of United States consuls in China and Japan to make rules and regulations which should have the force of law over citizens of the United States resident in those countries and the observance of which might be enforced in the consular courts. In your No. 158, of the 4th of December, 1874, you inform the Department of the then recent receipt by you of a communication from Mr. Van Buren, consul-general, asking your consent to the enactment of such regulations of the consular board at Yokohama, and at the same time state that you did not give your consent, for the reason that in your opinion such powers of legislation were not conferred upon either the consuls or ministers of this Government under the laws of the United States, and that the exercise of such a power would be beyond the scope of the legitimate functions of these officers. The opinion thus expressed by you met with the approval of the Department, and was found to be in accord with its previously expressed views on that question, and you were so instructed in my No. 115, of the 7th of January, 1875. In the same instruction you were requested to inform the Department what powers, if any, were claimed by the consular board, as such, to make such regulations, and whether the power spoken of was claimed by the several consuls to have been conferred by their separate governments, and what authority in regard to such questions had been conferred by the other treaty powers upon their ministers in Japan.

Your dispatch No. 228 was in reply to that instruction, and you forward with it a copy of regulations adopted by a convention of foreign consuls, held at Yedo, in October, 1867, a copy of rules and regulations adopted by the land-renters at Nagasaki, in September, 1860, and also a copy of a communication received by Mr. Van Buren, from Sir Harry S. Parkes, Her Britannic Majesty's minister, setting forth the grounds upon which the consuls of Great Britain claimed the right of exercising the *quasi* legislative powers referred to. Upon the perusal of your report no grounds were perceived for departing from the views which had been expressed by you and approved by the Department, inasmuch as the acts of Congress regulating the exercise of the extraterritorial judicial powers accorded in the treaties with Japan and China provides that the proceedings shall be governed by the laws of the United States, the common law, and the law of equity and admiralty, and when these failed to afford an adequate remedy, then by such regulations as should be made and promulgated by the ministers of the United States resident in those countries.

These provisions of the statute of the United States are not understood to confer upon the minister any power of general legislation, (as commonly understood,) but simply the power of supplying decrees and regulations to supply any defects in the mode of exercising the jurisdiction which the statutes and treaties gave to the consular courts. With us at home, our courts cannot legislate, cannot make laws, but may make regulations controlling the practice and the mode of their admin-

istering and enforcing the laws. When the statutes of the United States, the common law, and the law of equity and admiralty fail to furnish sufficient remedies for the exercise of the jurisdiction which the statute confers on the consular courts in Japan, China, &c., the minister may supply the deficiency. Such is understood to be the extent of legislative power, if even this can properly be called "legislative power," which is given to either minister or consul by the statute. No power is given to the minister to make a regulation which will establish or impair the rights existing between parties to create or impose new obligations on citizens. He is confined to making regulations which will enable the established courts to administer justice between parties according to existing laws, and to punish those who offend against the laws.

The question now presented, however, is conceived to be different. It is not a question of general legislation, but one of local corporate municipal enactment of ordinances or regulations for the preservation of the peace, morals, and good order of the town or municipal community, and confined to such objects as the wants and necessities of that particular community may demand; it is the exercise of a power known to exist in the municipal authorities of the cities and towns throughout the United States, resting, it is true, in the latter case, upon municipal charters granted by the supreme legislative power of the State. But instances are not wanting in the history of this Government in which similar powers have been exercised by inchoate communities suddenly formed within the jurisdiction of the United States, and who, for the time being, finding themselves situated outside of any organized State or Territory, have been led by the dictates of prudence and necessity to form themselves into a voluntary political organization, frame codes of laws for the preservation of order and good government and the protection of the lives and property of the individuals composing such communities, and to establish tribunals for the administration and enforcement of such laws; and the laws enacted, administered, and executed under such conditions have, so far as is now known, been respected and sanctioned by both the executive and judicial branches of the Government of the United States, as it is believed they have been by the judicial tribunals of the several States of the Union.

If, in the case of the residents of what is known as the "foreign quarter" of Nagasaki, the government of Japan, in its concession of the territory for that purpose, conferred upon the foreigners residing within such territory the right of such local municipal legislation, or if, in the absence of any direct grant, that government offered no objection to such local arrangement, and cast upon the inhabitants the duty of providing for the general police of the "quarter," such as lighting, paving, sanitary arrangements, and the preservation of the public peace and good order, it would seem to follow that regulations and ordinances enacted and promulgated by a council selected by the people in such manner as they had mutually agreed upon, should be accepted as the municipal law of the community, have the force and effect of law, and that their observance might be enforced by proper proceedings in the consular courts, subject to the ordinary conditions governing the jurisdiction of these tribunals; and if the correctness of this proposition is admitted, there cannot, it is believed, be any doubt of the right of the municipal council to maintain an action in the consular court for the recovery of a penalty incurred by a failure to pay a public-house license imposed by one of these regulations. As the Department is without full information on this point, it is desired that you will, with as little delay as convenient, transmit such information as you are now in pos-

session of, or may be able to obtain, as to the precise nature and extent of the powers granted or conceded by the Japanese government to the residents of the "foreign quarter" at Nagasaki.

But even in the absence of any such express grant from the authorities of Japan, I am unable to concur in the opinion expressed by you that the regulations or ordinances of the municipal council should not be recognized as binding upon citizens of the United States resident in that community. American citizens, in common with the citizens and subjects of other foreign powers composing the population, enjoy all the rights and privileges pertaining to such residence or domicile, and they share in the common protection afforded to persons and property in the advantages and conveniences resulting from such regulations as provide for the lighting, paving, cleansing, and other sanitary measures for the general welfare of the municipality. They are there voluntarily, it is to be presumed, for the advancement of their own interests; while they share the benefits of a regulated police, they should not be free from the charges of its support, or from its control.

The police supervision of places of public entertainment, or of public amusement, is among the essentials of a well-regulated, orderly community, and the income derived from licenses for keeping houses of public entertainment constitutes, it may be supposed, a not unimportant part of the municipal revenue upon which the council must rely to meet the expenses incident to such arrangements. The granting of such licenses is within the scope of the necessary power incident to municipal corporations, and the attempt to exercise the power itself would prove futile if the correlative authority to enforce its observance by a resort to ordinary legal remedies is denied to the municipal council. A refusal of the consular court to entertain jurisdiction in a suit for the recovery of the license-fee, would partake of the nature of a decision before hearing. I am not aware of any reason why a citizen of the United States, resident in Japan, may not be brought into court at the suit of any person or set of persons who think they have a valid claim against him. The statutes of the United States do not exclude any parties from becoming plaintiff in these courts against a citizen of the United States, found within their jurisdiction. He may there plead against the competence of the parties to sue him, or present such other defense as he may think proper against their right of recovery. In the case referred to it is conceived that he might even raise the question of the validity of the regulations under which the license-fee is demanded; but it is not perceived that the court should exclude the plaintiff and deny its process against one amenable to its jurisdiction on the presupposition that the right, which the plaintiff desires to establish, is unfounded.

Mr. Smith is an American citizen, resident in Japan. He can be held answerable only in the extraterritorial judicial tribunals of his own country, established in Japan under treaty provisions. It is thus seen that the refusal of the United States consular court to entertain jurisdiction of the cause preferred by the municipal council against Mr. Smith, in effect leaves the complainant in that case without remedy, and amounts to a practical denial of justice.

In view, however, of the imperfect information at present before the Department on the question of the source and origin of the powers claimed by the municipal council, it is not proposed to give you definite and final instructions in relation to the future course to be pursued until such additional information as you may be able to obtain in regard to that question shall have been imparted.

I am, &c.,

HAMILTON FISH.

No. 186.

Mr. Bingham to Mr. Fish.

No. 312.] UNITED STATES LEGATION, JAPAN,
Tokei, December 29, 1875. (Received February 2, 1876.)

SIR: Referring to my No. 293, of date the 18th of November last, inclosing a copy of my communication to the Hon. Mr. Plunkett, secretary of the English legation, in relation to the Bonin Islands and American interests there, I have now the honor to inclose herewith a copy of a dispatch addressed to me by Sir Harry S. Parkes, of date the 27th instant, together with a copy of a report made to him by Mr. Robertson, the British consul at Kanagawa, in answer to my several inquiries made through Mr. Plunkett. (Inclosures Nos. 1 and 2.)

You will observe that the commerce of the islands is but nominal; that American whalers more frequently enter Port Lloyd than the vessels of any other nationality, and that the entire population is but sixty-nine, of whom but four are classed as white persons. According to the report it appears that probably the first resident of those islands was an American citizen, a native of Massachusetts, named Nathaniel Savory, who settled at Port Lloyd in 1830, and who died last year at that place, leaving a widow and six children. Before the dwelling of this family Mr. Robertson, on the day of his arrival, found the American flag floating from a staff, and states that, upon inquiry made by him whether the flag was intended to signify that the family considered themselves under American protection, he was answered in the negative, and that it was displayed on the arrival of vessels, &c., in compliance with the request made by Mr. Savory at the time of his death.

From the report it appears that Benjamin Pease, hitherto considered an American citizen, is dead, probably murdered; that his property is not of great value, and that his nationality is now questioned.

Upon the information furnished I consider that it is not needful at present to inquire further for American citizens or American interests in the Bonin Islands.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 312.]

Sir Harry S. Parkes to Mr. Bingham.

HER MAJESTY'S LEGATION,
Yedo, December 27, 1875.

SIR: Mr. Plunkett having communicated to Mr. Robertson, Her Majesty's consul at Kanagawa, on his departure for the Bonin Islands, your letter of the 15th ultimo, desiring inquiry to be made as to the reported death of Benjamin Pease, and also requesting information relative to the trade and population of the Bonin Islands, I have now the pleasure to forward to you the inclosed copy of a dispatch, which I have received from Mr. Robertson, furnishing all the information he was able to collect on the points you named.

It will afford Mr. Robertson and myself much satisfaction to learn that he has succeeded in meeting your wishes in this matter.

I have the honor to be, sir, your most obedient, humble servant,

HARRY S. PARKES.

Hon. JOHN A. BINGHAM,
&c., &c., &c.

[Inclosure in inclosure in No. 312.]

Dispatch from Mr. Robertson to Sir Harry S. Parkes concerning the Bonin Islands.

BRITISH CONSULATE,
Kanagawa, December 23, 1875.

SIR: I have the honor to acknowledge receipt of dispatch No. 66, of the 15th ultimo, addressed to me by Mr. Plunkett in your absence, covering copy of a communication from the United States minister, requesting that my visit to the Bonin Islands might be availed of to obtain information on certain points set forth in the communication above referred to, and I have now the honor to submit, for the information of the United States minister, the following particulars:

First, in respect to the rumored death of Benjamin Pease, an American citizen:

Pease was last seen alive on the morning of the 9th of October, 1874, when he left his dwelling alone at 3 a. m. in a canoe to go around to visit Webb, an Englishman, whose holding is about 2¼ miles distant by water from Pease's dwelling. Pease never reached Webb's house, and two days afterward his canoe was found close to the rocks, bottom up, and much damaged. Suspicion points somewhat strongly to a man named Spenser as either the actual murderer or instigator of the deed. I am assuming, of course, that Pease has been murdered; that he is dead there seems to be but little doubt among the settlers at the Bonins. The man Spenser (a negro) was brought to Port Lloyd (Bonins) by Pease in 1873, on returning from a visit to the island of Ascension, better known, perhaps, as Panape, situated in latitude 7° north, longitude 158° 15′ east. Spenser took up his residence with Pease and Mrs. Pease, (so called.) Mrs. Pease, I may here mention, is the daughter of an Englishman, George Robinson, by a woman a native of Guam. Her sister is married to Webb, and both women still reside at Port Lloyd. From all I could learn Pease suspected Spenser of a liason with his wife; this suspicion led to an open quarrel, and Spenser left Pease's house. This occurred in September, 1874. On the 27th of September Webb remembers Pease coming to his house with a loaded rifle, saying he was "after that d——d ruffian," meaning Spenser, who was supposed then to have sought shelter with Webb. I am here led to remark that Webb himself, from his own showing, was by no means on good terms with Pease. The latter had, in the year 1869, induced him to leave Port Lloyd for Ascension, where promises of lucrative employment had been held out by Pease. These promises were never fulfilled, and Webb eventually returned to Port Lloyd to find himself dispossessed of his holding and reduced to great straits, the results, as he alleges, of Pease's delusive promises.

On the 11th of June of this year, 1875, Spenser, strange to say, also disappeared under circumstances as inexplicable as those in connection with Pease. He started from Webb's place in his canoe, on the above-mentioned date, to look for turtle, and was never seen again. The canoe was found two days afterward splashed with blood, and in the canoe was the coat Spenser had been wearing, torn across the back, apparently with a turtle-hook, and stained here and there with blood. Some faint light is thrown on this man's disappearance by the statement of a man named Robert Myres, a native of Bermuda, and now residing at Port Lloyd. He informed me that the canoe used by Spenser belonged to him, Myres, and was only loaned to Spenser, and that some months ago when one of the settlers was using it the canoe was chased by another canoe, having on board two or three of a family of Kingsmill Islanders, the Tewcrabs by name, also residents at Port Lloyd. The occupant of Myres's canoe shot his boat up a creek and behind some rocks, the other canoe passed by, and one of the men in her was heard to say, "We came d——d near catching him then." Myres, in explanation of this, said that his life had been threatened more than once by a young fellow named Savory, born on the islands, the son of an American, Savory by name, one of the earliest settlers, by a woman a native of Guam now living at Port Lloyd. Young Savory and Myres had cast their eyes on the same woman, a Japanese, who elected to live with Myres, and hence the cause of offense to Savory. Myres thinks that on the occasion just quoted some of the Tewcrabs, instigated by Savory, pursued his canoe under the impression that he was in it, and that he was the man meant as to whom it was said they came so near catching. At a later date Spenser is using Myres' canoe, and disappears under the horribly mysterious circumstances as above stated.

I met and conversed with young Savory (Horace Savory) several times during the Curlew's stay at Port Lloyd, and sounded him as to any cause of quarrel with Myres. He denied that there was any grounds of quarrel, and said that Myres was apprehensive of danger where no danger really existed. Savory, a youth of about 22, is not of prepossessing appearance, but, apart from that, I found him exceedingly civil and obliging. He acted as guide on the islands to Captain Church and myself on more than one occasion, and his home, where he lives with his mother and five brothers and sisters, is a pattern of cleanliness and decency. I questioned Pease's widow in respect to his disappearance, but all my questions were answered by monosyllables, accompanied by a silly laugh. The woman had a baby at her breast, born but a few weeks

prior to our visit, and of which, judged by the date of Pease's disappearance, he cannot have been the father. It is currently reported on the island that Spenser was the father of the child.

To all my inquiries about Pease's general conduct and character, I received but one reply. He appears to have made himself very obnoxious to the settlers, threatening to dispossess them, and generally assuming a tone of authority over them. No one seems to regret his loss, nor does one hear a single compassionate remark about him.

I think it right to state that doubt is thrown on Pease's claim to have been considered as an American citizen, and that if the proofs could be got at it would, probably, be found that he was a British subject. As regards any property left by him, there is the dwelling-house and garden, situated on a location known as Aki, at Port Lloyd. This property was purchased by Pease from a Frenchman named Leseur, now on the island, for the sum of $80, and nobody at Port Lloyd would dispute a claim to this put forward on behalf of Pease's estate. The Japanese government, however, assuming that they assert and make good their claim to the Bonins, may have something to say on the subject of Leseur's right to sell the property. There are also on the premises nineteen head of cattle, in excellent condition. Nobody asserts a claim to these as against Pease, but it is generally believed that they are, or were, really the property of a company in Shanghai, known as the Pacific Trading Company, and which, probably, does not now exist. The cattle were brought originally to Port Lloyd by Pease, or by a man named Hayes, much associated with him, in 1871, in a brig, the Pioneer, from String's Island, one of the Carolina group, and rumor has it that the cattle were stolen by either Pease or Hayes.

This is all I have to note on Pease's disappearance and of his estate. I pass to the next subject on which information is requested.

The trade of the islands may be summed up in this: Each settler cultivates a small garden-patch in which he raises taro, sweet potatoes, pumpkins, and other garden-vegetables; he occupies himself, also, in turtling and fishing.

The harbor of Port Lloyd may be said to be visited only by whalers; a year, perhaps, passing with only one whaler touching at the port. The settlers trade off their garden produce, turtle-shell, turtle-oil, and domestic poultry, which last mentioned thrive on the island, to the crews of the whalers against anything they can get, such as cutlery, hardware, drills or clothing material of any kind, tobacco, and ships' stores generally.

The settlers prefer a system of barter, but are willing to accept Mexican dollars, in which case the rates for produce are notably as follows: turtle, each $2; turtle-shell, 50 cents per pound; lemons, (largely grown,) $2 per hundred; turtle-oil, $10, $15, and $20 per barrel. Garden-produce is almost invariably bartered. Timber is also sold; the best kinds cut and delivered on board at 25 cents per foot.

The whalers visiting the port carry either American, Hawaiian, or French colors, and in rare instances English; but for the most part the whalers are American. I make the total population to be sixty-nine, namely: sixty-six at Port Lloyd, and three on Hillsboro' Island, one of the Bailey or Coffin group. Of the population there are only four pure whites now residing there, viz, Thomas Webb, a British subject, who arrived in 1849; Lewis Leseur, a French citizen, who made his first appearance at Port Lloyd in 1852, but did not settle there till some years later; William Allen, a German subject, who arrived in 1852; and Rose, of whom it is doubtful whether he is of Dutch or German nationality, who is settled on Hillsboro' Island, Bailey group; the date of his arrival is uncertain, but it must have been subsequent to 1861. There is also at Port Lloyd a Portuguese (so called) named Gonzalves, but who goes by the name of Bravo. I can scarcely class him among the pure whites, for his appearance indicates that he has negro blood in his veins. He arrived on the island as far back as 1831.

One of the oldest, if not indeed the oldest, residents died at Port Lloyd last year. This was Nathaniel Savory, born in Massachusetts, United States, who settled at Port Lloyd in 1830. He has left a family of six children, who, with their mother, reside at Port Lloyd, on a clearing at the head of the harbor. The eldest son is a young fellow of some 22 or 23 years of age. Close to the dwelling is an outhouse immediately facing the anchorage, and in front of this the American flag was displayed from a staff on the day of our arrival in the Curlew. On visiting the dwelling, I asked Mrs. Savory if the hoisting of the flag was intended to convey that the family considered themselves under American protection. She answered in the negative, merely saying that it had been the dying wish of the late Mr. Savory that the flag should be flown on the arrival of a vessel or on any gala day. I invited her confidence and that of her family as to any wishes she might have on the subject of nationality or protection by reason of her alliance with Savory, but she said that, in common with her children and the settlers generally, they had no other wish than to be regarded as Bonin Islanders, and to be protected in their rights of property on the island. It is but right I should mention that Mrs. Savory had lived as the companion of two other men, at different times, prior to her becoming the companion of Savory. It is questionable, therefore, how far this family, even if they so desired, may be entitled to American protection, and

any other claims to American citizenship by the settlers would be of the same shadowy nature.

In respect to Japanese, there are at present only two on the islands, both residing at Port Lloyd, one as a companion to a Manila man named Sino, the other as companion to a British subject, a native of Bermuda, Myres by name. These women went down from this some two years ago to the Bonins in a small schooner, called the Fori, flying American colors, and elected to remain at Port Lloyd; three or four other Japanese women, in addition, also went on the Fori, but returned to Yokohama.

The circumstances under which Japanese commissioners established a small colony at Port Lloyd, at the latter end of 1861, to be withdrawn early in 1863, are probably known to the United States minister.

I think the above furnishes replies to the different points on which information was requested.

I have, &c.,

RUSSELL ROBERTSON.

Sir HARRY S. PARKES, K. C. B., *&c.*

No. 187.

Mr. Bingham to Mr. Fish.

No. 325.] UNITED STATES LEGATION, JAPAN,
Tokei, January 18, 1876. (Received March 3.)

SIR: I have the honor to inclose herewith in duplicate the fourth report of the postmaster-general of Japan for the half fiscal year which ended June 30, 1875.

The report, you will observe, shows that in the postal service for the empire (exclusive of fines and the revenues derived from mail-steamers, &c.) the expenditures for the half fiscal year exceed the revenues but $59,629.03, or 23⅓ per cent.; that the mail-routes equal 26,625 English miles, and that the mail-transmissions equal 12,289,878 letters, &c., for the half-year.

I have the honor, &c.,

JNO. A. BINGHAM.

[Inclosure.]

Fourth report of the postmaster-general of Japan for the half fiscal year ended June 30, 1875

POST-OFFICE DEPARTMENT, TOKIO, JAPAN,
June 30, *eighth year of Meiji*, (1875.)

In pursuance of the notification that the general government has changed the fiscal year so as to commence on the 1st of July of one year and end on the 30th of June of the next, and that all the accounts from the 1st of January of the eighth year of Meiji (1875) to the 30th of June of the same year should therefore be closed up at the end of the half year, I have the honor to submit the following report of the transactions of this department for the said half year, designated, as above, the fourth report of the postmaster-general.

The present report cannot be termed an annual report, as those preceding it have been, but in its numerical order is called the fourth, because, though the postal system was introduced in the fourth year of Meiji (1871) by the establishment of a mail-route from Tokio to Osaka, it was not until the following year that mail-routes were partially extended into the country and the affairs of this department became of sufficient importance to require a special report, which was designated the "Report for the fifth year of Meiji," (1872,) and therefore those for the sixth and seventh years of Meiji (1873 and 1874) and for this half fiscal year are the second, third, and fourth, respectively.

METHOD OF COMPARISON.

In order to compare the accounts of this half year with those of the preceding year, double the half year's accounts are taken as an estimate for the whole year; but as the service is rapidly increasing, the actual accounts of the second half of the eighth year of Meiji (1875) will undoubtedly show a very great increase over the first half, and the comparison will therefore fail to show the actual difference in those accounts.

REVENUES AND EXPENDITURES.

The revenues of this department for the half fiscal year ended June 30 of the eighth year of Meiji, (1875,) including the postages, *i. e.*, the revenues derived from the sale of stamps, stamped envelopes, postal cards, and newspaper-wrappers, box-rents, fees for money-orders, and revenues from all other sources, (except the fines paid to the judicial department for the infringement of postal laws and regulations, the revenues derived from the sale of mail-steamers, and other revenues which, though properly belonging to this department, are not included herein,) are 255,681.04 yen.

The expenditures made directly by this department are 309,321.57 yen, and the expenditures made by other departments for the sole use of this, such as for building and repairing post-offices, and for printing instructions, &c., are 5,988.50 yen, making the total expenditures 315,310.07 yen.

A comparison of the revenues and expenditures, as above given, shows that the latter exceed the former by 59,629.03 yen, or 23.3 per cent. A portion of this excess is due to the fact that the salaries of officers having charge of sea and land transportation are included therein, in order that the accounts of this department may be simplified as much as possible.

The estimated revenues for the eighth year of Meiji (1875) were 548,000 yen, but doubling the actual revenues of this half year gives 511,362.09 yen, or about 36,600 yen less than the estimate. From this falling off in the revenues it might seem as if the affairs of the department were in a less prosperous condition than in the preceding year. This is not, however, the case, as they were never more prosperous than at the present time; and from the constantly increasing demand for new and important mail-routes, which are being opened almost daily, and from the increase of service on routes already established, and especially from the increase of collections and distributions of mails, which are to be made ten times daily in Tokio, and a corresponding number of times in places of less importance after the 1st of July of this year, it is reasonable to suppose that there will be an increase in the revenues of the last half of this year (1875) over those of the first half amounting to much more than the apparent deficit of 36,600 yen.

The expenditures for the eighth year of Meiji, (1875,) estimated by doubling the actual expenditures for the half year, are 630,620.14 yen, while the estimate made last year was about 639,000 yen, showing a very slight difference. However, as the public are becoming daily better informed in regard to the benefits to be derived from the postal system, and as the applications from the different provinces for the establishment of new post-routes and for increase of service are becoming correspondingly more frequent, and in consequence of the increase in free delivery from July 1, the actual expenditures for the whole year (1875) will probably be much greater than the estimate.

A comparison of the revenues of the eighth year of Meiji, (1875,) as estimated by doubling the actual revenues realized up to June 30 with those of the seventh year of Meiji, (1874,) shows an increase of 159,117.19 yen, or 45.2 per cent.; and a comparison with those of the sixth year (1873) shows an increase of 285,616.07 yen, or 126.5 per cent.

The expenditures of the year, estimated in like manner, show an increase of 128,429.43 yen, or 25.6 per cent., over those of the seventh year of Meiji, (1874;) and an increase of 397,817.14 yen, or 170.9 per cent., over those of the sixth year (1873.)

The estimated revenues for the fiscal year ending June 30, ninth year of Meiji, (1876,) are 570,000 yen, (although the actual revenues realized will probably be much greater,) which is an increase of more than 58,637 yen, or 11.5 per cent., over those of the eighth year of Meiji, (1875,) as estimated by doubling the actual revenues realized during the half year ended June 30. The estimated expenditures for the same year are 697,000 yen, which is an increase of more than 66,379 yen, or 10.5 per cent., over the expenditures of the eighth year of Meiji, (1875,) estimated in like manner.

A comparison of the estimated revenues and expenditures for the next fiscal year, (ending June 30, ninth of Meiji,) as above given, shows a deficiency of 127,000 yen, or 22.3 per cent. This deficiency, compared with the deficiency of this half year, shows a decrease of 1 per cent., (it is expected that the actual result will show a still greater decrease;) and compared with the deficiency of the seventh year of Meiji, (1874,) it shows a decrease of 20.3 per cent.

Although a comparison with the sixth year of Meiji (1873) does not show so favorable a state of facts, it is to be taken into consideration that at that time the postal system was hardly established, and the mail-routes so few and unimportant as to be a source of but little expense; and therefore this year and the year preceding are not considered a fair object of comparison with the present year, inasmuch as the postal system has now become thoroughly equipped and organized in all its branches.

As the deficiency thus appears to be decreasing, it would seem that in time the revenues would cover the expenditures; but for several reasons, as explained in the last report, such a condition is not likely to be attained for many years.

* * * * * * *

NUMBER OF ARTICLES TRANSMITTED IN THE MAILS.

The aggregate number of letters, newspapers, books, patterns, &c., transmitted in the mails during the half year ended June 30, eighth year of Meiji, (1875,) was 12,289,878, as detailed in the table below. The estimated number for the whole year is therefore (by doubling the actual number transmitted during the half year) 24,579,756. As the mails are rapidly increasing, this estimate will undoubtedly prove to be far below the actual number transmitted. Yet, as above given, it shows an increase of 4,642,333, or 23.3 per cent., over that of the seventh year of Meiji, and of 14,028,854, or 133 per cent., over that of the sixth year. The number of newspapers alone transmitted through the mails during this half year was 1,839,846. The number for the whole year, obtained by doubling this number, shows an increase of 1,050,044, or 39.9 per cent., over that of the seventh year, (1874,) and an increase of 3,165,082, or 615 per cent., over that of the sixth year, (1873.) The actual increase will undoubtedly prove to be much greater than this estimate, for the reasons before given.

Although the number of articles transmitted in the mails is still very small in proportion to the whole population, yet it is very gratifying to perceive this rapid increase, which is the best proof of a corresponding progress in civilization.

Table showing the number of letters, newspapers, books, patterns, &c., transmitted in the mails during the half year ended June 30, eighth year of Meiji:

Letters, ordinary	8,077,333
Letters, registered	165,752
Postal cards	1,849,190
Newspapers	1,839,846
Books, patterns, &c.	44,860
Official letters	183,318
Letters containing money	47,480
Dead letters	2,156
Dead letters returned to writers	816
Ordinary letters stolen	283
Ordinary letters lost	11
Money-letters stolen	9
Letters dispatched to foreign countries	44,185
Newspapers, &c., dispatched to foreign countries	34,639
Total	12,289,878

MAIL-ROUTES.

The mail-routes in operation throughout the empire during this half year aggregated 10,650 ri (26,625 English miles) in length. The increase over those in operation in the preceding year was 563 ri, (1,408 miles,) and 5,973 ri, (13,183 miles,) or 98.1 per cent., over those of the sixth year of Meiji, (1873.)

TOTAL ANNUAL TRANSPORTATION.

The total annual transportation for the half year was 2,423,737 ri, (6,059,343 miles,) an increase of 135,530 ri, (338,825 miles) over that of half of the preceding year.

POST-OFFICES, ETC.

During this half year there have been established 205 post-offices, 86 stamp agencies, and 37 street letter-boxes, and there are, therefore, now in operation 3,449 post-offices, 703 stamp agencies, and 513 street letter-boxes. In addition to these, there have been established in large cities 83 branch post-offices for receiving and transmitting mails to the general offices of the cities where they are located.

When the general post-office was erected at Tokio last year, the room for mailing and distribution was considered unnecessarily large, but it has been found to be, in fact, altogether too small, and a large room is now being prepared for that purpose.

New post-office buildings were completed at Yokohama, Kobe, and Nagasaki on the 1st of January last.

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FOREIGN MAILS.

In early times no one in this country appears to have thought that the government should furnish a means of postal communication, and therefore there were no such means of communication, except as limited to certain localities and provided by the enterprise of merchants, styled "Hikiakuya." When, therefore, the empire was opened

to foreign intercourse, there were no facilities for the exchange of correspondence, and the English, French, and American governments found it necessary, in the exercise of extraterritorial jurisdiction, to establish post-offices at the open ports for the accommodation of their respective citizens. These offices were also called by us "Hikiakuya," and were regarded in every respect as private mercantile enterprises; and although the postages which were paid to them ought to have been a source of revenue to our government, still at that time we had no proper conception of a postal system, and therefore we regarded it as an ordinary business transaction, not at all understanding that by so doing we were yielding to other governments the privilege of controlling our postal affairs.

POSTAL CONVENTION WITH UNITED STATES.

However, on the 6th day of August, 1873, through our amicable relations with the United States Government, a postal convention was concluded between that country and Japan. This convention went into effect on the 1st of January of the present year, and the report (which is herewith submitted) of foreign mails exchanged under its provisions is very gratifying, as being the dawn of a new era in the administration of our postal affairs. It is, however, greatly to be regretted that we have not yet full control of all the foreign mails received in and dispatched from this country; but it is to be hoped that the English and French governments will carefully observe the manner in which the provisions of the existing convention are carried out; having done which, I am confident they will desire to conclude similar conventions, and thus relegate to us the privileges hitherto taken and now withheld from us.

It would seem that the treaty powers were favorably disposed to such a measure, for at the celebration of the inauguration of the foreign-mail service all the ministers (except the Spanish minister) were present, and generally congratulated us and expressed a wish for our future success.

In this connection I take pleasure in mentioning the eminent services of Samuel M. Bryan, esq., superintendent of foreign mails, to whose energy and experience the present prosperous condition of this service is due. It is proper also to say that very general satisfaction is expressed, both here and in the United States, in regard to the manner in which the service, generally and in detail, has been conducted.

TRANSPORTATION OF MAILS TO THE UNITED STATES.

By the terms of the convention between the United States and Japan the transportation of mails to the United States by the semi-monthly steamships of the Pacific Mail Steamship Company was the subject of no charge against Japan, until the recent abrogation by the United States of the contract with that company for additional mail-service. Since that time the mails have been carried once a month by the subsidized steamers of the Pacific Mail Steamship Company free of any charge against Japan, and mails dispatched upon the extra steamers of that company were paid for at the regular sea-postage rate.

Since the Occidental and Oriental Steamship Company have established their line of steamers we have sent our mails by them, but the conditions for their transportation not having been yet arranged, we are paying them only the ordinary sea-postages.

TRANSPORTATION OF MAILS IN THE PORT OF YOKOHAMA.

For celerity and security in the transportation of mails to and from steamers in the port of Yokohama, a steam-launch is now being constructed, and will be ready for use in July of this year.

TRANSPORTATION OF MAILS BY MITSU BISHI MAIL STEAMSHIP COMPANY.

The through mails of the United States to and from Shanghai by the steamers of the Occidental and Oriental Steamship Company are, as a matter of courtesy, transported between Yokohama and Shanghai free of charge by the steamers of the Mitsu Bishi Mail Steamship Company.

The following table is an exhibit of the amount of correspondence exchanged under the postal convention with the United States for the half fiscal year ended June 30 eighth year of Meiji, (1875.)

Table of the mails received and dispatched by the foreign department of the imperial Japanese post-office for the half fiscal year ended June 30, 1875.

	No. of articles.	No. of single rates.	Weight in grams.	No. of registers.	Postages canceled.
MAILS DISPATCHED.					
Letters dispatched to the United States	14,423	23,808	275,729	150	$3,742 36
Papers, &c., dispatched to the United States	13,003	17,880	780,640	.....	474 64
Letters dispatched beyond but via the United States	16,549	27,954	328,965	205	6,479 26
Papers, &c., dispatched beyond but via the United States	15,787	18,190	916,590	.....	755 33
Letters dispatched to Shanghai	13,213	22,762	260,020	105	1,407 60
Papers, &c., dispatched to Shanghai	5,849	7,308	362,463	.....	171 46
Domestic letters dispatched	33,166	61,847	366,534	137	1,279 13
Domestic papers, &c., dispatched	13,720	18,678	879,825	.....	195 31
Total	125,710	198,427	4,170,766	597	14,503 09
MAILS RECEIVED.					
Letters received from the United States	12,062	20,516	248,462	67	3,077 40
Papers, &c., received from the United States	32,605	43,757	2,644,190	.....	875 14
Letters received from beyond but via the United States	655	935	9,869	12	205 56
Papers, &c., received from beyond but via the United States	.....	.....	.....	.....	.....
Letters received from Shanghai	13,395	22,076	254,016	29	1,324 56
Papers, &c., received from Shanghai	13,230	15,025	805,694	.....	302 00
Domestic letters received	32,287	60,920	361,597	137	1,260 23
Domestic papers, &c., received	12,918	17,652	819,555	.....	184 65
Total	117,152	180,881	5,143,383	245	7,229 54

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POSTAL MONEY-ORDER SYSTEM.

The postal money-order system was established on the 2d of January of the eighth year of Meiji, (1875.) During that month the number of money orders issued was only 4,120, amounting to 72,243.10 yen. During the month of March 6,384 orders were issued amounting to 111,913.69 yen, and the number of orders issued in June was 8,393, amounting to 147,056.43 yen, thus showing an increase in the number issued in the latter month over those issued in January of 103.6 per cent.

The total number of orders issued during the half year was 39,398, amounting to 690,617.48 yen. The total number of money orders paid was 37,768, amounting in value to 671,624.98 yen, and 1,630 orders, amounting to 18,992.50 yen, have not been presented for payment. The fees from money orders were 3,722.59 yen.

The money-order funds were 181,700 yen, including private funds voluntarily advanced by postmasters by special arrangement. The number of money-order post-offices was 114, including the general post-office. This small number of money-order offices is quite insufficient to supply the growing requirements of the country, and it is very desirable that they should be greatly increased. To do this, however, great difficulties must be overcome, of which the most serious is the difficulty of transporting currency over routes where wheeled vehicles cannot be employed. Another difficulty is that the accounts are kept in foreign style, and the officers must necessarily first be instructed in foreign book-keeping. Therefore new money-order offices can only be established as the capital increases and as the officers become sufficiently trained to properly take charge of them.

Table showing the money-order transactions for the half fiscal year ended June 30, 1875.

	Yen.
Capital government funds	161,500 00
private funds	20,200 00
Total	181,700 00
Number of orders issued, 39,398, amounting to	690,617 48
Number of orders paid, 37,768, amounting to	671,624 98
Excess of orders issued, 1,630, amounting to	18,992 50
Fees received on the above orders	3,722 49
Average fee for each order	09

POST-OFFICE SAVINGS-BANKS.

During this half fiscal year post-office savings-banks have been established, as an experiment, in Tokio and Yokohama, in which cities there are now 19 offices where savings can be deposited. Many applications have been made from different provinces for the establishment of these banks, but as it is but a few years since the postal system was introduced, and as there are but few persons who are thoroughly conversant with postal matters, it is feared, if they are now charged with another duty, much confusion may arise and mistakes may be made. Great care must therefore be exercised in their extension, which will be very gradual.

The amount deposited in these banks, up to the 30th of June, was 6,108.82 yen; the certificates issued were 4,478, and the number of depositors was 917. The amount withdrawn was 1,221.57 yen, in 770 certificates, and the number of persons who withdrew their deposits was 135. Thus the amount now remaining on deposit is 4,887.24 yen, in 3,708 certificates, and the number of depositors is 782. With such a large population, and so many of the poor working-class as there are in Tokio, for whose benefit the system is particularly intended, the amount on deposit seems wonderfully small. This is owing to the fact that the public are not acquainted with the benefits to be derived from the system, and from the too prevalent habit of regarding economy and frugality with contempt. Moreover, the rates of interest now prevailing in this country are high, and therefore many complain of the rate allowed by the savings-banks, and do not appear to take into consideration the importance of the perfect security afforded to the accumulation of small savings. Even the editors of newspapers, who are in the habit of discussing problems of civilization and political economy as applicable to our present condition, do not properly consider these things, but oppose the savings-banks on account of the rate of interest. One of the most important steps toward the amelioration of the condition of the people, and toward developing the resources of the country, is to instill into the minds of the people habits of frugality and economy; and every effort should be put forth to build up the savings-bank system, the only one which offers an incentive to economy by enabling them to place small sums at interest with perfect security; and I trust that in time the purpose of the department in this respect will be attained, and the success of the system be secured.

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H. MAYESIMA,
Postmaster-General.

No. 188.

Mr. Bingham to Mr. Fish.

No. 346.] UNITED STATES LEGATION, JAPAN,
Tokei, February 21, 1876. (Received March 23.)

SIR: On the 8th instant I received from Mr. Terashima, for the information of our Government, certain statistics of mines, shipping, productions, &c., of Japan. In these statistics, among other things, I learn that there are in this empire 1,260 miles of telegraphic lines in operation, with 59 offices; also, 32 miles of railway opened in 1872 and 1874; also another railway to be opened in June next, connecting Osaca with Kioto, the ancient capital of the Mikado.

This statement shows further that there are in the service of the government 28 war-vessels, one of which is iron-clad; and that within the current year there are to be added to this fleet five additional vessels, one of which is to be iron-clad and two partially armored. It also appears that there were in the merchant-service of Japan, in 1874, 124 vessels, to which several have been added.

Of agricultural productions the following is shown as the product of 1873: Rice, 115,000,000 bushels; supposed value, $115,000,000. Wheat, 36,000,000 bushels; supposed value, $36,000,000. Tea, first quality, 20,750,000 pounds; supposed value, $500,000. Raw silk, 750,000 pounds; supposed value, $1,202,337. Silk, 1,000,000 pounds; value unknown. Tama silk, 3,000,000 pounds; value unknown. Floss silk, value, $83,629. Cotton, 13,000,000 pounds; value, $508,201. Silkworm eggs exported, value, $2,810,090.

When you consider that the land is cultivated almost exclusively by hand, and that every blade of the rice is set by hand after it first springs from the seed, it is very noticeable that so much should be grown. With the aid of our machinery for planting, gathering, and threshing the grain, Japan could, with the same number of persons employed, produce fourfold the amount above stated of rice and wheat.

It also appears by this official statement that there are leased mines in this empire of gold, silver, copper, tin, iron, lead, arsenic, copperas, mica, coal, petroleum, kaoline, alum, sulphur, rock-salt, marble, fire-clay, mineral resin, &c., 2,155 in number. The report is not intelligible as to the quantity or value of the minerals produced.

I have, &c.,

JNO. A. BINGHAM.

No. 189.

Mr. Bingham to Mr. Fish.

No. 347.] UNITED STATES LEGATION,
Tokei, Japan, February 21, 1876. (Received March 23.)

SIR: On the 8th instant I received from Mr. Terashima, the Japanese foreign minister, a dispatch requesting me to notify our citizens to refrain from publishing newspapers or periodicals in the Japanese language within this empire; a copy of which dispatch I have the honor to inclose, (inclosure No. 1.) On the same day I replied to Mr. Terashima, requesting an official translation of the press-laws issued by his government, a copy of which reply is herewith, (inclosure No. 2.) On the 17th instant the foreign minister sent me an official copy of the press-laws in Japanese, a translation of which, as made by Mr. Thompson, I have the honor to inclose, (inclosure No. 3.) Of these laws it seems to me proper to remark that by the first section *all persons* are prohibited from publishing a newspaper or magazine, either in native or foreign language, within this empire without license first obtained from the interior department; that by the fourth section, the proprietors, managers, and editors of such licensed publications are required to be *Japanese subjects;* that by the eighth section the names and residence of correspondents are required to be published, save in the matter of current news, when the article relates to the domestic or foreign policy, &c. of this government, and punishes all such publications under an assumed name; that the twelfth section prohibits and punishes seditious publications tending to incite to the violation of the laws, or to rebellion and resistance to lawful authority; that the thirteenth section subjects the writers and publishers of articles calculated to subvert the government, or to produce insurrection, to imprisonment; that the fourteenth section prohibits and punishes articles which tend to bring the laws into disrepute, and to hinder obedience thereto, or to excuse or defend offenders against the same; that the fifteenth section prohibits the publication of preliminary examinations, &c. in criminal cases; and that the sixteenth prohibits the publication of petitions without the consent of the officers to whom they are addressed.

It is to be observed that Mr. Terashima requests in his dispatch of the 8th instant that I notify my "countrymen to refrain from publishing a newspaper or periodical in the Japanese language," while the laws enacted by his government prohibit the publication in Japan by foreigners of newspapers or periodicals in any language whatever.

By the laws inclosed, the privilege to print or publish in Japan is limited to *Japanese subjects.* The general provisions of these laws, in so far as they prohibit and punish the publication of libel, seditious articles, and the like, may be said to be unobjectionable. To restrict to Japanese subjects the privilege of license to print and publish any matter whatever, as these laws do, seems to me unwise and impolitic, and a manifest departure from the spirit, if not from the letter also, of the treaty of 1858 between Japan and the United States. The third article of that treaty secures the right to American citizens, as such, to reside within certain territorial limits in this empire, and, by implication, to enjoy therein all the rights common to the subjects of Japan; and the eighth article of the treaty assures to Americans resident in Japan "the free exercise of their religion," which I infer carries with it the right to publish by the press, as well as by speech, the principles and scriptures of Christianity.

Before taking action upon Mr. Terashima's request, I respectfully submit the whole subject to the Department for instructions, and beg leave to suggest whether it might not be well to insist that the press-laws be made general, so as to allow all foreigners, in common with Japanese subjects, to obtain license to print and publish, subject to the conditions and restrictions specified in the act, within the foreign concessions, and also to secure to the citizens of each foreign nationality the treaty-right to publish whatever pertains to the Christian religion, the principles of which have become incorporate in the laws and constitutions of all western nations.

I have, &c.,

JOHN A. BINGHAM.

[Inclosure 1 in No. 347.]

Mr. Terashima to Mr. Bingham.

FOREIGN OFFICE, TOKEI,
The 8th 2d month, 9th year of Meiji.

SIR: It is felt that to allow foreigners to publish in the native language and to circulate among our people newspapers or other such periodicals, would prove a great hinderance to the administration of the government. The undersigned therefore has the honor to request that your excellency will be good enough to notify your countrymen to refrain from publishing any such newspaper or periodical.

With respect and consideration,

TERASHIMA MUNENORI,
His Imperial Japanese Majesty's Minister for Foreign Affairs.

His Excellency JOHN A. BINGHAM,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

[Inclosure 2 in No. 347.]

Mr. Bingham to Mr. Terashima.

No. 295.] UNITED STATES LEGATION,
Tokei, February 8, 1876.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch of this date requesting me to notify my countrymen to refrain from publication within His Majesty's empire of newspapers or other periodicals in the Japanese language.

I would respectfully request your excellency to furnish me a translation of the press-law enacted by your government on this subject.

I have, &c.,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,
&c., &c., &c.

[Inclosure 3 in No. 347.]

No. 111.

Notice is hereby given that the press-laws published in proclamation 352, dated the tenth month of the sixth year of Meiji, have been repealed, and the following laws enacted.

SANJO SANEYOSKI.

DAIJO DAIJIN, *28th of the 6th month, 8th of Meiji.* (June 23, 1875.)

PRESS-LAWS.

I. When a paper or magazine to be issued from time to time is about to be published, the proprietor or manager shall make written application for permission to the Naimusho, (department of the interior,) through his Fu, Ken, or Cho, (city or town authorities.) Should a paper be published without permission the offense will be investigated by the legal authorities, (in general, violators of the law will be prosecuted before the proper officers by the Fu, Ken, or Cho authorities,) the publication shall be stopped, and the proprietor or manager, editor and printer shall each be fined 100 yen, ($100.) Any one falsely pretending to have received government permission shall pay a fine of from 100 to 200 yen, and the machinery for printing shall be confiscated.

II. The following points are to be mentioned in the written application: 1. Name of the publication. 2. Time or frequency of publication; whether daily, weekly, monthly, or at irregular intervals. 3. Name and residence of the proprietor. If a company, shareholders are to be excepted, and the name or names and residence of the director or directors are to be given. 4. Name and residence of the editor. If there are several editors, the name and residence of the principal editor. 5. The name and residence of the printer. If the editor also acts as printer, this fact is to be stated. If any one falsifies respecting any one of the five above points his publication is to be stopped or suspended, (to suspend is to stop the publication for a fixed time,) and the person making application shall pay a fine of from 10 to 100 yen.

III. When the editor or chief editor withdraws from his position or dies, a temporary editor or chief editor may be appointed and the publication continued; in which case, within fifteen days, counting from the day after such withdrawal or death, the proprietor or manager shall make known to the Fu, Ken, or Cho authorities the name and residence of said editor or chief editor. If this is not made known within the given time the publication shall be stopped, and the proprietor or manager shall pay a fine of 100 yen. When any change occurs in any of the other five points mentioned in the second article above, this change shall be made known to the authorities within fifteen days by the proprietor (or manager) and editor or chief editor, under their united signatures. When such change is not made known within the given time, the proprietor, or director and editor, or chief editor shall pay a fine of 100 yen.

IV. The proprietor, manager, editor, and temporary editor shall all be Japanese subjects.

V. The proprietor or manager may himself be the editor or chief editor.

VI. When there are two editors one shall be chosen chief editor. At the end of every paper or other publication the names of the editor and printer shall be published. When there are several editors the name of the chief editor shall be published. When the editor or chief editor is sick or disabled a deputy may be appointed, whose name must be published. When the names are not thus published, the editor, chief editor, and deputy shall pay a fine of from 100 to 500 yen. The editor or chief editor whose name is thus published shall be held responsible for the contents of the paper or other publication.

VII. When the contents of a paper or book are in violation of any of the rules from the twelfth and onward, or when they are slanderous, the editor shall be regarded as the principal offender and the correspondent as second. If the publication is made with the knowledge of the proprietor or manager, he shall be regarded as an offender equally with the editor.

VIII. The name and residence of correspondents shall always be published when, with the exception of current news, they write anything concerning the domestic or foreign policy of the country, finance, public opinion, spirit of the times, education, laws, politics, religion, or anything affecting the rights of officers or people. When a correspondent writes under an assumed name he shall be imprisoned thirty days and pay a fine of 10 yen. When he uses another man's name he shall be imprisoned seventy days and pay a fine of 20 yen.

IX. When translations from papers and periodicals are inserted, the name of the translator must be published, except when only current news is given. When the translator violates any of the rules from the twelfth onward, or when he violates the law of slander, he shall be held responsible under the seventh article, which requires that a correspondent be treated as a secondary offender.

X. When an editor is ordered to be imprisoned for his own offense, the proprietor or manager may, except when the paper is suspended for some special cause, appoint a temporary editor, or a new editor, and continue the publication. Unless such editor is appointed, the publication must be suspended.

XI. When any memorial or petition for reform is received at the office of a newspaper or periodical from any well-known department, company, or private person, it must be published in the next number after it is received. When this regulation is violated the editor shall pay a fine of from 10 to 100 yen.

XII. Those persons who, by means of newspapers and other periodicals, incite the people to violate the laws, shall be regarded as guilty of the violation of the laws. Those found thus inciting others shall be imprisoned from five days to three years, and shall pay a fine of from 10 to 500 yen. When any one incites others to rebellion and resistance of authority, he shall be treated as a principal offender, and when detected in thus inciting others shall be punished as the foregoing.

XIII. Articles calculated to overthrow the government or to disorganize the country, or tending to produce insurrection, shall render the writer liable to from one to three years' imprisonment. Should an actual outbreak occur in consequence of such incitement, the writer shall be treated as a principal offender.

XIV. Articles vilifying the actual laws or hindering obedience to the laws of the land, or excusing and defending offenses which render the perpetrators liable to punishment, shall subject the writer to from one month to one year's imprisonment and to a fine of from 5 yen to 100 yen.

XV. It is not allowed to publish the preliminary examination of criminals made before the case is brought to public trial, nor the discussions of the officers of the court who conduct the investigation. Those who offend against this regulation shall be liable to imprisonment for from one month to one year, and to a fine of from 100 to 500 yen.

XVI. It is not permitted to publish petitions or memorials without the consent of the bodies to which they are addressed. (In Sho, Shi, and Cho.) Those who violate this regulation shall be punished as directed in the fifteenth article.

The editor of those papers and periodicals which were published by permission before this proclamation was made need not apply for permission again, but only make known to the Naimusho, through the Fu, Ken, and Cho authorities, the five points mentioned in the second article, within ten days after this proclamation has been made known. Those who do not make this known within ten days shall have their publication stopped by the Fu, Ken, or Cho. Those who make application must observe the directions given in the first article.

When there are several editors and no chief editor, one chief editor shall be elected or temporarily appointed within two days after this proclamation is made known.

If after two days the chief editor's name is not published in the paper or magazine, its publication shall be stopped by the Fu, Ken, or Cho authorities.

Those who make application should apply as before directed.

No. 190.

Mr. Fish to Mr. Bingham.

No. 220.] DEPARTMENT OF STATE,
Washington, April 5, 1876.

SIR: I have to acknowledge the receipt of your dispatch No. 304, dated 7th December, 1875. It relates to the hunting regulations proposed by the Japanese government, and states that these regulations are accepted by the foreign representatives with the exception of the protocol proposing a new tribunal for the trial of offenders. The Japanese minister of foreign affairs waives the protocol, but insists that all fines collected from offenders against the regulations be paid to the Japanese government. You suggest that as the costs in such cases are small, the United States consent to the request of the minister of foreign affairs.

In the opinion of the Department this concession cannot properly be made under the laws of the United States. Section 4089 of the Revised Statutes is that under which this class of offenses would come, and sec-

tion 4088 makes the consul in such cases correspond in judicial character to a justice of the peace. The ground upon which this matter of trial and punishment by United States tribunals sitting in foreign territory rests is, that the United States citizen is constructively within the jurisdiction of his own Government, and must be tried and punished under United States law. The punishment is inflicted by and the penalty forfeited to the government whose court sits in judgment, and all fines and penalties must go with the authority that imposes them.

* * * * * * *

I am, &c.,

HAMILTON FISH.

No. 191.

Mr. Fish to Mr. Bingham.

No. 224.] DEPARTMENT OF STATE,
Washington, May 2, 1876.

SIR: I have to acknowledge the receipt of your dispatch, No. 347, dated 21st January last, with its inclosures. It relates to the press laws of Japan, and the request made to you by the minister of foreign affairs to prohibit American citizens from publishing newspapers or periodicals in the Japanese language. You transmit a copy of a translation of the press-laws, and express the opinion that the general provisions of the laws are unobjectionable, but that they are violative of treaty-rights in so far as they prohibit publications in any language save by Japanese subjects. Before taking action upon the request of the minister of foreign affairs, you submit the matter to the Department for instructions.

I have carefully examined the press-laws, and agree with you that they are in the main unobjectionable. It appears, however, that by the first section of the law all persons publishing newspapers or magazines, in either the native or a foreign language, are required to procure license, and the fourth section prescribes that such licenses shall be issued only to Japanese subjects. This last-mentioned provision of the law you deem unwise and impolitic, and a manifest departure from the spirit, if not from the letter, of the treaty of 1858 between Japan and the United States, the third article of which, you say, secures to Americans the right "to reside within certain territorial limits in this (the Japanese) empire, and, by implication, to enjoy therein all the rights common to the subjects of Japan;" and the eighth article "assures to Americans resident in Japan the free exercise of their religion, which I (you) infer carries with it the right to publish by the press as well as by speech the principles and scriptures of Christianity."

The laws for the regulation of the press in Japan are Japanese municipal laws, and whether politic or impolitic, wise or unwise, it seems to me to be their undoubted right to establish and enforce them—the question of their wisdom or policy being one for the Japanese government alone to determine. The laws certainly contrast favorably with the press-laws of some Christian nations.

I am unable to agree with your conclusion that these laws contravene any provision of our treaty with Japan. The right accorded by the third article of the treaty to American citizens to reside within certain territorial limits does not necessarily carry with it, by implication, all

the rights common to the citizens of Japan. In all governments, including our own, certain rights are reserved to citizens which are not accorded to foreigners. We cannot consistently demand that Japan shall be made an exception to this rule. The eighth article of the treaty, to which you particularly refer, provides that "Americans in Japan shall be allowed the free exercise of their religion and for this purpose shall have the right to erect suitable places of worship. No injury shall be done to such buildings, nor any insult offered to the religious worship of the Americans."

I do not see how, by any fair construction, this can be said to carry with it the right to print and publish newspapers or periodicals in violation of Japanese law. The free exercise of one's religion does not necessarily involve the right to proselyte; and, however desirable that may be, the Japanese authorities have a right to insist that proselyting shall not be pursued in violation of law. The press-laws are general in their nature, and were, evidently, not framed for the purpose of interfering with the free exercise of their religion on the part of foreigners.

It is noticed, as an evidence of the liberality of the Japanese government in the enforcement of the press-laws, that the minister of foreign affairs requests you to notify your countrymen "to refrain from publishing a newspaper or periodical in the Japanese language" only, while the laws prohibit the publication in Japan, by foreigners, of newspapers or periodicals in any language whatever. It is evidently the intention of the Japanese authorities that these laws, so far as they affect foreigners, shall be construed with as much liberality as possible; and we should show our appreciation of this considerate and wise course by cordially co-operating whenever called upon to aid in any legitimate manner in their enforcement.

As these laws are not regarded as violative of treaty-rights, and, all things considered, not illiberal in their requirements, and obedience to them being required of foreigners as well as of natives, there seems to be no reason why you should not comply with the request of the minister of foreign affairs, and issue to American citizens the desired notice, in order that they may not offend against the laws, in ignorance of their provisions.

I am, &c.,

HAMILTON FISH.

No. 192.

Mr. Bingham to Mr. Fish.

No. 351.] UNITED STATES LEGATION, JAPAN,
Tokei, March 6, 1876. (Received April 3.)

SIR: * * * * * * * *

On the 3d instant I addressed to Mr. Terashima, the minister for foreign affairs, a dispatch asking to be informed in regard to the mode of adjusting claims presented against the Japanese government by foreign governments and the citizens or subjects thereof, and also requesting a reply specifically to the several inquiries of the instruction, a copy of which dispatch is herewith. When the reply is received from the foreign office, I shall lose no time in transmitting the same to the Department.

From the information already gained by conversation and official

communications with the Department, it is my opinion that all claims against this government are determined by its executive departments upon *ex-parte* evidence, save where a submission is made to arbitration, and that His Majesty, with the advice of his council, (Daijo Kuan,) appropriates from the treasury the money for the payment thereof. So far as I know the mode of procedure as to the claims of foreigners, it is to present the same in writing to the foreign office through the diplomatic representative of the foreign government or foreign citizen or subject in interest. I am of opinion that this government is not liable to be sued in any judicial tribunal of the empire. I am also of opinion that any citizen or subject of a treaty power resident or non-resident in Japan can maintain an action against Japanese subjects in the courts of His Majesty, but that foreigners not citizens or subjects of a treaty power, unless resident here, cannot maintain such action here.

This is all that with my limited information I can at present say upon the subject. I regret that the circular of June 23, 1874, did not reach me sooner.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure.]

Mr. Bingham to Mr. Terashima.

No 306.] UNITED STATES LEGATION,
Tokei, March 3, 1876.

SIR: For the information of my Government, and in compliance with instructions therefrom, I have the honor to inquire of your excellency whether there is any general and uniform system and mode of procedure for the investigation and determination of claims preferred or held against the government of His Imperial Japanese Majesty by the government of any foreign power or any citizen or subject thereof.

I am instructed to obtain full information on this subject, and to report the same to my Government, and to that end I beg leave to request, at as early a day as may suit your excellency's convenience, replies to the following inquiries:

1st. Are claims against your excellency's government investigated, determined, and, if allowed, their payment directed and provided for by the legislative branch of the government?

2d. If the legislative authority does entertain such claims, what is the mode of procedure, by committee or otherwise, and what means, if any, are provided for procuring evidence on behalf of your excellency's government?

3d. What provision, if any, is made for the determination of claims by the executive department? What is the mode of procedure in the investigation of claims by or before executive officers, and what means are provided for procuring evidence on behalf of your excellency's government?

4th. Is there any provision of law allowing a Japanese subject to sue your excellency's government in the regularly-established courts or in any special tribunal, and does the privilege of maintaining an action against your government (if it exists) extend to aliens?

5th. What is the status of aliens before the regularly-established courts of your excellency's country? Can they maintain an action in such courts against a Japanese subject, and, if so, does the privilege extend to all aliens, or is it confined to resident aliens only?

6th. If different systems of adjudication exist as regards different classes of claims, what is the system with reference to each class, and what the mode of procedure and the privileges of your excellency's government in relation to evidence in its behalf and the means of procuring such evidence?

7th. Please add any other information, general or special, of which your excellency may be possessed bearing on the subject.

I have the honor to be, sir, your obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,
His Imperial Japanese Majesty's Minister for Foreign Affairs.

No. 193.

Mr. Bingham to Mr. Fish.

No. 355.] UNITED STATES LEGATION, JAPAN,
Tokei, March 9, 1876. (Received April 3.)

SIR: It is gratifying to be able to say that a treaty of peace and commerce has been concluded between Japan and Corea without further conflict.

On the 2d instant His Imperial Japanese Majesty's vice-minister for foreign affairs, Mr. Sameshima, acquainted me of this by a private note, which he concludes by saying: "Mr. Kweoda reached Simonoseki yesterday, and telegraphed this news to us, at which I know you will rejoice as much as any of us in Japan."

On the 4th instant, in an interview with Mr. Terashima, I took occasion to say that I congratulated his government upon the result of the mission to Corea, and received from him assurance that, as soon as possible, I should be furnished the text of the treaty for transmission to the Department.

I understand that by the treaty three ports are to be opened to the commerce of Japan in Corea, and that Japan and Corea will hereafter be represented by diplomatic agents at their respective courts. Of the further details of the treaty I am not advised.

The peaceful solution of the difficulties between this government and Corea is especially satisfactory to me, in view of the opinions expressed by me to Mr. Terashima in reply to his inquiries touching the sending of a commission to Corea by this government, as communicated to you in my No. 306, of the 13th of December last.

I have, &c.,

JNO. A. BINGHAM.

No. 194.

Mr. Bingham to Mr. Fish.

No. 363.] UNITED STATES LEGATION, JAPAN,
Tokei, March 21, 1876. (Received April 25.)

SIR: At an interview on yesterday his excellency Mr. Kweoda, late the Japanese ambassador to Corea, gave me some account of the people and resources of that country and of his reception. He informed me that the people are in great poverty, live chiefly on rice and fish, are poorly housed and poorly clad, and are intensely hostile to foreigners. He also informed me that there is no coal or iron or copper in the country, and doubts whether it is rich in gold, though they gather small quantities of gold-sand, it is said, about $130,000 of which in value they annually send to China. He further states that the whole population does not exceed 10,000,000, and that their forts and arms are indifferent. He says the tide rises in the bay approaching the town of Kakwa from 33 to 36 feet, and that at low water there are but from 2 to 3 fathoms in the harbor. On the evening of his approach to the shore with his vessel, at night-fall, there appeared on the hills near the coast many fires and many people. After some parley with the men whom he sent off in a small boat, the minister was received and taken to the capital,

which is protected, as I understand him, by double parallel walls and gates.

As the treaty has not yet been published, Mr. Kweoda made no statement of its details, but seemed satisfied with the result.

I do not know that any effort will at present be made by the other powers to negotiate a treaty with Corea.

I have, &c.,

JNO. A. BINGHAM.

No. 195.

Mr. Bingham to Mr. Fish.

[Extract.]

No. 366.] UNITED STATES LEGATION, JAPAN,
Tokei, March 23, 1876. (Received April 25.)

SIR: I have the honor to inclose herewith a translation of the law recently enacted by this government in relation to the publication of books within His Imperial Japanese Majesty's empire, and securing a copyright to authors. This translation has been carefully made by Mr. Thompson, the interpreter of this legation, who brings to the discharge of his duties a knowledge of the Japanese language acquired by twelve years of careful study. Why Congress should seek to cut us off from the services of such a man, without which service we are really unable to know what is done here, is beyond my powers of conjecture. It is needful for the Government, as it is needful for its agents, to know what is being done affecting the rights or interests of citizens of the United States here, as elsewhere.

* * * * * * *

I have, &c.,

JOHN A. BINGHAM.

[Inclosure.—Translation.]

No. 135.

Proclamation in regard to copyright and printing of books.

Notification is hereby made that the rules to regulate printing published by the mombusho (department of education) of date the first month of the fifth year of Meiji, (January, 1872,) have been repealed, and that the following rules are enacted.

Third of ninth month of eighth year of Meiji, (September 3, 1875.)

DAIJO DAIJIN.
SANJO SANEYOSHI.

Rules to regulate printing of books.

I. When any one has written a book or translated a foreign book, and is about to print it, before printing he shall give notice of his intention to the naimusho, (department of the interior.)

The regulations of mercantile and other companies, school catalogues, and regulations and notices of various kinds, are not here included.

II. When any one has written a book or translated a foreign book, and is about to publish it, he may obtain the right of exclusive sale for thirty years. This right of exclusive sale is called the copyright. Each author or translator is at liberty to apply for a copyright or not, as he prefers. Those who wish to obtain a copyright should petition for and obtain it. When this is not done, any one is at liberty to print a book at the same time with the author.

III. Though it is not necessary to send a copy of the intended publication along

with the notice to the naimusho, nor along with the request for a copyright, yet some times a copy may be demanded for examination.

IV. When the copies or the printed books deposited in the department have been examined and found to be injurious to society, the printing and sale shall be prohibited and the type destroyed.

V. Both the notice to the naimusho and the petition for the copyright should be forwarded through the local government. When the author and printer reside in different districts, the notice and petition should be forwarded through the local government of the district in which the printer resides.

VI. Works which are unusually beneficial to society may have their copyright time extended for fifteen years after the legal term of thirty years has expired.

VII. For the purpose of securing the copyright, a certificate fixing the time will be given. After this time has expired, every one will have an equal right to print.

VIII. When a writer composes a large work, requiring several years for its publication, in parts issued one after the other, he shall receive a copyright for each part at the time when it passes through the press, and the time of the expiration of such copyright shall be reckoned accordingly.

IX. When any one, as successor, wishes to obtain the copyright of a book published by another person, he shall first consult with the holder, and thereupon present a petition bearing the seal of both parties. In case of the first holder's death, the person who has thus obtained the copyright shall be regarded as the holder.

X. A person who wishes to print the work of another person, the copyright of which is secured, abbreviating passages, or adding corrections, notes, appendixes, or pictures, must first obtain consent of the holder, after which he must observe the rules already herein laid down.

XI. When an author wishes to republish his own work, of which he holds the copyright, abbreviating, or adding corrections, notes, appendixes, or pictures, he must apply again for a copyright. If he only changes the type, or merely prints the book in another form in more or fewer parts, or reprints it as it was originally, his copyright continues valid. He must, however, give notice and forward copies to the naimusho, as herein directed.

XII. After the death of an author, his successor may print his posthumous works, for which a copyright shall be given when requested.

XIII. A copyright may be transferred before its expiration from the holder to the successor, in which case the successor shall make known to the naimusho the facts connected with the transfer.

XIV. When any one prints the works of another, he must first gain the author's consent. The petition for the copyright and the notice to the naimusho shall in this case bear the seal of both the publisher and author.

XV. It is not allowed to plagiarize from the works of another, the copyright of which has been secured. This, however, does not forbid quotation for the purpose of argument or proof.

XVI. Whenever it happens that two or more persons simultaneously write the same kind of a book independently, they shall each one receive a copyright. When doubt rests on either of the parties, the case shall be investigated, and thereupon a copyright shall be conferred or withheld.

XVII. When one translator has translated a foreign book, and thereafter another retranslates it, and gives proof that he has corrected mistakes, supplied omissions, and improved the style, his proof shall be considered when he applies for a copyright, and said right shall be granted or withheld accordingly.

XVIII. No difficulty will be encountered in consequence of two books by different authors having the same name, provided the contents and treatment are different. In such cases the name of the author should be written on the title page.

XIX. A list of books printed shall be kept in the naimusho, and published from time to time.

XX. After the type for a book has been engraved, three copies of the book struck off shall be deposited in the naimusho. When a copyright is granted, the price of six more copies shall be deposited to defray the expense of granting the license. It is not permitted to sell any copies before these copies have been deposited and this license-fee paid. After the book has been printed, the price of each book should be stamped upon it.

XXI. The name and residence of the author should be printed in his book. When these cannot be ascertained, this fact should be noted, and the day, month, and year when first printed. The day, month, and year when the copyright was given should also be noted, and the name and residence of the holder should be given. It is not allowed to give other than the true name. When one has succeeded to a copyright, or bought it, or a part of it, the name of such successor, owner, or partner should be given.

XXII. Copyrights may be bought or sold at pleasure. When this is the case, both parties to the transaction should make known the fact to the naimusho under their united signatures.

XXIII. It is not forbidden to divide a copyright, by gift or sale, to different persons who then may each print the same book. This is called dividing the copy. Both parties to the transaction must give notice to the naimusho under their united seals, as before directed.

XXIV. If any one does not give notice as directed to the naimusho when he succeeds to or buys in full or shares a copyright, he shall forfeit such right.

XXV. When an author changes the title of a book already licensed, or when he adds an introduction or conclusion to a book, copies of which have been deposited in the naimusho, he shall notify the naimusho of the fact and deposit anew copies of the book thus altered. The author who does not give notice or who does not deposit the required number of copies shall forfeit his copyright.

XXVI. When any one has lost his permit, it will be given to him anew upon application, in which case he must pay the price of three books as a fee for the renewal of the license.

XXVII. The printers of frivolous discourses, songs, &c., must also observe the foregoing regulations.

XXVIII. Notice should be given every time a colored primer or fashion-plate is printed according to regulation first.

Penalties attached to the violation of the printing regulations.

I. When any one prints a book without giving notice to the naimusho, or says that he has obtained a copyright when he has not done so, or sells books without first depositing the requisite number of copies in the naimusho, or without paying the license-fee, his type, stock of books printed, and money received from sales shall all be confiscated.

II. Should any one make type of a different form, or slightly alter the form of the letters or pictures in a book, or add a little, or change the name of the book and publish it, thus hurting the copyright held by another, he shall pay a fine of from 20 yen ($20) to 300 yen, and his type, stock of books on hand, and receipts from sales shall be forfeited and paid to the rightful holder of the copyright.

III. Any one who sells a book which he knows was printed in violation of the first and second regulations shall pay a fine of from 5 to 100 yen. One who sells a book which he knows was printed in violation of the second regulation shall forfeit his books on hand and receipts from sales, all which shall go to indemnify the holder of the copyright.

IV. Any one who prints a book without the name or residence of the holder of the copyright, or who sells such book, or who changes or falsifies the name or residence, or who knowingly sells such printed book, shall be punished with imprisonment from ten days to six months, and confiscation shall take place according to the first regulation.

V. Every author of a book who violates the law of slander or breaks any of the press laws from the twelfth and onward, shall be punished as there provided. In this case the author shall be regarded as the principal offender, and the printer as subordinate to him.

VI. Licentious productions and books calculated to pervert good morals, such as trifling discourses, songs, pictures, and anything tending to licentiousness, shall render their authors and publishers liable to punishment by imprisonment from thirty days to one year, or to a fine of from 3 yen to 100 yen.

VII. When a court has received a complaint about a book published contrary to these regulations, it shall immediately distrain the type-plates and all the stock of books on hand, which, after the case has been decided adversely, shall be confiscated by the officer. If the publisher himself controlled the printing by means of movable type, or if he employed a printer who knew he was committing an offense, this printing apparatus shall be forfeited.

VIII. One who after publishing is found to have committed an offense, even though he has received a copyright, shall be punished according to these regulations.

Additional regulations.

From the day these regulations go into effect, all previous proclamations respecting printing or publishing shall become null and void.

The authors of books published previously should, within four months from the day when these regulations go into effect, present their petitions for copyrights, according to these rules. Those who fail to do so within the given time shall have no copyright. The regular license-fee shall be paid when a petition is forwarded for a copyright for such previously published books.

With the exception of proclamations, public documents, regulations and transactions of the various departments, everything published by the in, sho, shi, cho, fu, and ken authorities (*i. e.*, legislature, departments, bureaus, courts, city and provincial governments) shall hereafter be reported to the naimusho.

No. 12.

Proclamation is hereby made that the two following regulations are to be added to the regulations published in proclamation No. 135, of date ninth month of eighth year of Meiji.

DAIJO DAIJIN.
SANJO SANEYOSHI.

Ninth of second month of ninth year of Meiji.

REGULATION XXIX. After a copyright has been given, when the holder gives notice to the naimusho of sale or of change of name, &c., he should obtain the seal of the provincial government on the back of the document.

XXX. If there is not room for the seal on the back, he should get the document rewritten, in which case he is to pay the price of three books as a fee.

No. 196.

Mr. Bingham to Mr. Fish.

No. 400.] UNITED STATES LEGATION, JAPAN,
Tokei, May 19, 1876. (Received June 19.)

SIR: In accordance with instruction No. 200, of date the 20th of January last, I sought additional information in relation to the complaint of Mr. Glover and the source and origin of the powers claimed by the municipal council of Nagasaki.

On the 15th of March last I addressed to Willie P. Mangum, esq., United States consul at that port, a communication on that subject, a copy of which I have the honor to inclose herewith. (Inclosure No. 1.)

Owing to illness, Mr. Mangum was not able to answer my inquiries until the 8th instant, when he replied in a dispatch received by me on the 17th instant, a copy of which is herewith. (Inclosure No. 2.) It is to be noted that Mr. Mangum states that the rules by which the foreign ettlement in Nagasaki is managed "are known as the 'land regulations.' They make no mention of a *municipal council*, and such an institution was not contemplated by their framers," and "no corporate powers have ever been conferred upon it." The land regulations referred to were transmitted to the Department in my No. 228, of May 20, 1875, and designated as inclosure 8.

In view of all that is stated by Mr. Mangum, and in the inclosures with my No. 291, of date November 18, 1875, and especially the inclosure therein entitled "Regulations respecting the issue of licenses, adopted October 7, 1869, by the several foreign consuls at Nagasaki," and also in my No. 228, of May 20, 1875, and inclosures, (Foreign Relations, 1875, part 2, pages 798–809,) I am of opinion that the municipal council of Nagasaki is not a corporation, either by prescription or express grant, and that Mr. Glover, as its chairman, had not the authority by law to institute and prosecute a suit against Smith for the non-payment of license-tax under the land regulations and the regulations respecting the issue of licenses above mentioned.

Assuming that Mr. Glover had authority to institute a civil proceeding in the premises against Smith before our consul, it seems to me that the only way in which he could have proceeded would have been to follow section 1 (page 2) of the regulations for the consular courts of the United States of America in Japan, and to have filed a complaint in writing, verified by oath, before the consul. Instead of making such complaint, Mr. Glover, in his note of 10th June last to Mr. Mangum,

calls upon the consul to give Captain Smith notice to pay his license-tax under clause 1 of the license regulations. If these consular license regulations have the force of law, of course Mr. Mangum, under clause 1, would be bound to notify Smith, an American citizen resident in Nagasaki, to pay the tax within one week, and in default of such payment, under clause 2 Smith became liable to be sued before the consul, and the consul by the same clause is required immediately in such case of default to order the house to be closed and the right of license to be forfeited until the amount due should be paid.

These consular license regulations having been prescribed in 1869 by the consuls of the several treaty powers, the question arises, by what authority did the United States consul, in conjunction with his consular colleagues, enact them? It seems to me that our consul had no color of authority to make any such regulations, nor had his associates, in so far as American citizens were concerned. My views of the absence of such power in our consuls are stated in my Nos. 151, November 19, 1874; 158, December 17, 1874; and 228, May 10, 1875, (Foreign Relations, 1875, part 2, pages 773, 777, and 798, 799.)

I beg leave to add that, in your instruction No. 115, of January 7, 1875, (*ib.*, pages 782, 783,) referring to my No. 158, respecting licenses, &c., and the want of power in the representatives of the United States in Japan to make regulations in relation thereto having the force of law, you were pleased to say that my general views were believed to coincide with the views heretofore expressed by the Department.

Whatever power the consular body at Nagasaki may have over the matter, it is clear from Mr. Mangum's statement that the municipal council which Mr. Glover claims to represent is not officially recognized by the consular board or by any of the consuls at Nagasaki, save Mr. Flowers, Her Britannic Majesty's consul at that port.

Article 3 of our treaty of 1858, second clause, (Treaties and Conventions, page 517,) to which Mr. Mangum refers, only authorizes our consul, in conjunction with the Japanese authorities in each open port of Japan, to arrange *the place* which Americans may occupy for buildings, and also to make harbor regulations, and in case of disagreement to refer the same for settlement to the American diplomatic agent and the Japanese government. This clause seems to show the extent of power conferred upon our consuls in Japan over the general rights of American citizens to reside and occupy or acquire lands in the open ports.

I do not doubt or controvert the views of the Department, as expressed in instruction No. 200, of the power of corporate municipal authorities, granted by the supreme power of the state within which they are, to enact ordinances for the government and good order of the municipal community, nor the power of inchoate communities to form voluntary political organizations and to make needful and just regulations when they are located outside of an organized state or territory; but in the case under consideration, the foreign settlement of Nagasaki is within the organized territory and general jurisdiction of this government, and all the inhabitants thereof are subject to the general laws of this empire which are not inconsistent with existing treaties, save that foreigners shall only answer for violations thereof before the consular tribunals of their respective countries, and, on conviction, shall be punished or adjudged only according to the laws of their respective countries.

In the light of all the information received by me and herein communicated or referred, to and heretofore received and communicated by me to the Department, the question involved seems to rest for its determination simply upon the authority and validity, as law, of the land regu-

lations and license regulations herein mentioned, and which have been enacted by the concurrent action of the several consuls whose names are subscribed thereto.

I have, &c.

JNO. A. BINGHAM.

[Inclosure 1 in No. 400.]

Mr. Bingham to Mr. Mangum.

No. 270.] UNITED STATES LEGATION,
Tokei, March 15, 1876.

SIR: In November last I received a communication from Thomas B. Glover, esq., representing the municipal council of Nagasaki, of date October 21, 1875, setting forth your neglect to notice a complaint made to you by the council against one Smith, an alleged American citizen, for the non-payment by him (Smith) of license-fees assessed under the Nagasaki municipal regulations.

I desire, under instructions, to acquaint the Department fully in regard to the complaint, and also in regard to the origin or source of the municipal regulations sought to be enforced by the council before you as American consul, and, therefore, request that you advise me fully of your views and the reason for your alleged refusal to entertain or take official action upon the complaint of the council.

It has always seemed to me that municipal regulations within this empire could only be made under and by virtue of express authority from the government.

Without entering upon any further expression of my views, I especially desire to know upon what authority and by whom the regulations were originally adopted, and what corporate powers have been conferred upon the Nagasaki council, and to be fully advised of your views, not only as to these several inquiries, but as to the whole matter of the complaint and your action in the premises.

You will please address and forward your reply directly to me under Revised Regulation 42.

I am, sir, your obedient servant,

JNO. A. BINGHAM.

WILLIE P. MANGUM, Esq.,
United States Consul, Nagasaki.

[Inclosure 2 in No. 400.]

Mr. Mangum to Mr. Bingham.

No. 28.] UNITED STATES CONSULATE,
Nagasaki, May 8, 1876.

SIR: I have the honor to acknowledge the receipt of your No. 270, of March 15, 1876, and regret that I have been unable to reply to it earlier, in consequence of a severe illness of several weeks' duration.

You inform me that in November last you received a communication from Thomas B. Glover, esq., representing the municipal council of Nagasaki, of date October 15, 1875, setting forth my neglect to notice a complaint to me by the council against one Smith, an alleged American citizen, for the non-payment by him (Smith) of license-fees assessed under the Nagasaki municipal regulations, and request an explanation of my views on the subject.

In reply, I have the honor to state that in consequence of irregularities in their election, the said Mr. Glover and those he alleged himself to represent as the municipal council of Nagasaki had received no official recognition from the consular body, (one consul alone dissenting, Mr. Flowers, the British consul,) nor from the Japanese authorities, and he was therefore debarred from instituting, as chairman of the so-called municipal council, the said complaint against Mr. Smith in this consular court.

The rules under which the affairs of the foreign settlement have been managed are known as the "land regulations." They make no mention of a municipal council, and such an institution was not contemplated by their framers. The name has been used as a matter of convenience, but no corporate powers have ever been conferred upon it; these regulations are essentially defective, and have been a fruitful source of dissensions from time to time since their adoption, many of the land renters, Mr. Glover and his associates among them, complying with them when it suited their convenience, and disregarding them at other times. They were originally compiled, on the opening

of the port, by the consular body and the governor of Nagasaki, and forwarded to Yeddo for the approval of the government and the foreign ministers. Some of the ministers approved of them, others did not. Among the former was the representative of the United States, but I have no record of their ever having received the sanction of the Government at Washington.

Our treaty is silent on the subject of the said regulations, but provides that "the place which the Americans shall occupy for their buildings and the harbor regulations shall be arranged by the American consul and the authorities of each place," &c., (*vide* article 3.) The rule regarding licenses was framed by the consular body a few years ago to check the evil of the many drinking-houses, but without the sanction of our Government to the land regulations. I doubt my authority to have enforced the payment of license-fees against the said Mr. Smith by suit in the consular court, on the complaint of any one. The only remedy I can see to the periodical dissensions is to place the municipal and police regulations under the control of the Japanese government. Let a foreigner, on the recommendation of the consuls, be appointed by the governor of Nagasaki, with a suitable salary, to superintend the settlement, and the foreign police be appointed in the same way, the governor and consuls to agree upon the amount of taxes on an equitable basis, and these taxes to be collected, in default of payment, through the consular courts in the name of the Japanese government, precisely as the land-rents are now collected. I am glad to state that a majority of my colleagues fully agree with me in this opinion.

I have the honor to be, sir, your most obedient servant,

WILLIE P. MANGUM,
United States Consul.

His Excellency Hon. JOHN A. BINGHAM,
United States Envoy Extraordinary and Minister Plenipotentiary, Tokei.

No. 197.

Mr. Bingham to Mr. Fish.

No. 401.] UNITED STATES LEGATION, JAPAN,
Tokei, May 19, 1876. (Received June 19.)

SIR: On the 12th of March last this government issued a notification proclaiming that from and after April last the Sabbath should be a day of rest throughout the empire, and also Saturday, from the hour of noon.

I have the honor to inclose herewith a translation of the notification.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure.—Translation.]

No. 27.

To the In, Sho, Shi, Cho, Fu, and Ken:

Hitherto the ichiroku (*i. e.*, 1st, 6th, 11th, 16th, 21st, and 26th of each month) having been days of rest, proclamation is now made that from next fourth month (April) Sunday has been fixed upon as the day of rest. On Saturday there shall be rest from noon.

SANJO SANEYOSKI.
DAIJO DAIJIN.

Twelfth of third month of ninth Meiji, (March 12, 1876.)

No. 198.

Mr. Bingham to Mr. Fish.

No. 406.] UNITED STATES LEGATION, JAPAN,
Tokei, June 1, 1876. (Received July 5.)

SIR: In pursuance of the treaty recently concluded between Japan

and Corea, the latter has sent hither an embassy, which arrived in this capital on the 29th ultimo.

Supposing the account published in the Japan Daily Herald of that date descriptive of the embassy and of the reception thereof might be of interest, I inclose a copy thereof herewith in duplicate.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure.]

[*From the Japan Daily Herald, May 29, 1876.*]

THE COREAN EMBASSY.

The Mitsa Bishi Mail Steamship Company's steamer Korio Maru arrived this morning in port from Kobe, and at 8 a. m. the Corean embassy and suit, seventy-six persons in all, landed at the English hatoba, where a strong police force had collected. Preceded by their own band of music, the Coreans went to the town-hall, whence they again started for the railway-station at 9.45, in order to proceed by train to Tokio. The ambassador is a man of very considerable stature and bulk; he wore a pair of very large spectacles, and was dressed in a violet crape robe. When he emerged from the town-hall and descended the steps, his followers, standing in the street, set up a shout, and the band played on flutes, drums, and tom-toms. The prevailing sound, however, was a lugubrious one, something like the sound from a fog-horn, and was emitted from some large wooden trumpets. The ambassador placed himself on a small seat covered with a tiger-skin, and fixed on an open litter, which was lifted on the shoulders of eight men; aloft, above his head, was carried a large white sunshade. The litter was preceded by the band of music which played the whole way to the station. Immediately before the litter walked two Corean girls, apparently about thirteen to fifteen years of age, in semi-Chinese costume, their hair in a long and thick plait hanging down their backs. After the ambassador's litter came four jinrikishas, each conveying a Corean; the rest of the suite made their way on foot. The men are tall and stoutly built, with rather a Malay cast of features. With the exception of the litter-carriers, who wore black felt hats, the rest wore small black hats of horse-hair adorned with peacock-feathers; through the meshes of the hat the wearer's hair was visible, collected in a knot on the top of the head. The dress of the common men is of stout parti-colored cotton, not over-clean. The five men composing the embassy are of the following rank: Shu-shin-shi-reso-sangi, Bakan-do-sha, Kajan-tai-fu, Fahanji-jau-san-pan, Fukushiu, Bakan dosha Kangi tai-fu. During the passage in the steamer they most scrupulously avoided partaking of anything of foreign origin, not touching wine or spirits. They would not even examine the vessel when they heard it was English-built.

From our special correspondent.

The Corean embassy arrived in Tokio this morning, by an ordinary train, at a quarter to twelve. Since 8 o'clock a large body of police had been collected in the neighborhood of shinbasi, as it was not then known by what train the strangers were to arrive. Soon after 11 a cordon of police was formed all the way from the railway-station to the castle gate, called Sukiya Bashi, and their appearance was the signal for the assemblage of an eager crowd. The wide, open space in front of the station was densely packed, and inside the station was a mixed crowd of Japanese and foreigners, among whom were most of the foreign ministers. When the train arrived, the embassy remained in their carriages till the ordinary passengers had passed out, occasioning to the spectators a momentary apprehension that they had had their trouble for nothing. At length the Coreans stepped out on the platform, and a very picturesque appearance they presented, looked at from a distance, reminding one of Italian brigands in a London theater. The costume appears to consist of knickerbockers, with gaiters, tight from the knee to the foot, and a robe of either cotton or silk, fitting tight to the body, with flowing tails. The most striking part of the dress was the hat, which is shaped something like a cardinal's, with a small crown and large flat brim, but is made of a transparent black gauze, but perfectly stiff; through the hats one could see that the hair is worn twisted up in a tail on the top of the head.

The embassy came along the platform in state. First, fourteen band-men, then flag-bearers and spearmen, then two women, with their black hair loosely plaited into tails like those of Chinamen, then a big umbrella, and then the great man himself. He was assisted, that is, literally supported, by two other richly dressed men, and followed by several others, who were evidently men of consideration. The cortege was closed by

nine bearers carrying a chair, which was very much like a temple (kiyoku-roku) put on a large and fragile stand. The music was shrill, harsh, and discordant, at least to our ears. A friend with musical proclivities assured us that some of the sounds were sweeter than those of Japanese instruments. The men were tall and well set up—many of them old men, who wore a Tartar beard and moustache. They stepped firmly as they walked, and seemed perfectly satisfied with themselves and indifferent to the laughter which the Japanese indulged in. They were conducted to the waiting-rooms in the railway-station, and, after a few minutes' interval for rest, they set out for the residence which has been prepared for them in Kanda Nishiki Cho, in much the same order as they had marched up the platform. A detachment of the imperial mounted body-guard headed the procession, and the chief ambassador, a tall, stout, handsome old man, with huge spectacles, rode in his open chair, towering above the heads of the bearers. The superior members of his suite, several of whom had peacock-feathers in their hats, followed him in jinrikishas, and the interpreters, of whom there were a crowd, had enough to do to start them according to their precedence. One nice-looking young Corean was evidently much exercised in his mind at the misplaced zeal of his jinrikisha coolie, who would try and start before his turn. All, however, was finally happily arranged, and the cortege wound its slow way without mishap to the residence set apart for the embassy.

No. 199.

Mr. Bingham to Mr. Fish.

No. 409.] UNITED STATES LEGATION, JAPAN,
Tokei, June 5, 1876. (Received July 5.)

SIR: In compliance with instruction No. 164, received 8th September last, after several verbal inquiries, I addressed, on the 4th of April last, to his excellency Mr. Terashima, the Japanese minister for foreign affairs, a communication in relation to the Lew Chew Islands, a copy of which I have the honor to inclose. (Inclosure No. 1.)

On the 1st instant I received a reply from the foreign minister to my communication, under date the 31st ultimo, a copy of which is herewith inclosed. (Inclosure No. 2.)

You will observe that the minister states that the Japanese government has not at any time interfered with the rights of the United States, as secured by its subsisting compact with the Lew Chew Islands.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 409.]

No. 319.] UNITED STATES LEGATION,
Tokei, April 4, 1876.

SIR: In pursuance of instructions from my Government, I beg leave to inquire what new conventions, if any, were entered into during the last and the current year between His Imperial Japanese Majesty's government and that of the Lew Chew Islands, and also to be informed by your excellency whether any privilèges and powers heretofore exercised by the government of those islands have, during the past and present year, been in anywise limited, restricted, or changed by the Japanese government.

I make these inquiries because it is the wish of my Government to know whether anything has been done in the premises which in anywise contravenes, limits, or changes the subsisting compact between my Government and that of the Lew Chew Islands, concluded on the 11th of December, 1854, and, if so, what those changes and limitations are.

I will thank your excellency for an early reply to these inquiries.

I have, &c.,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI, *&c., &c., &c.*

[Inclosure 2 in No. 409.—Translation.]

No. 44.] FOREIGN OFFICE,
Tokio, the 31st day of the 5th month, the 9th year Meiji, (May 31, 1876.)

SIR: I have the honor to acknowledge receipt of your excellency's communication dated the 4th April, 1876, in which your excellency inquires, by instruction of your Government, whether new conditions were entered into during the last and the present year between our government and that of Lew Chew Islands; and, if so, whether anything has been done which changes in anywise the subsisting compact between your Government and the Lew Chew han, which was concluded on the 11th of December, 1854.

I beg leave, in reply, to inform your excellency that Lew Chew was made a han under the Japanese government in the ninth month of the fifth year Meiji, (September, 1872.) Since the seventh year Meiji, (1874,) some officials of Naimusho (interior department) reside there who are authorized to manage all the matters which concern foreign countries. In the same year a mail-steamer began to ply between Tokio and that han. In the next, eighth, year Meiji, (1875,) an information was made to that han that a military station will be established there for its protection. I also beg to state that an information will be made to you whenever we have anything which would necessarily cause changes in the compact existing between your Government and the Lew Chew han, as further changes are intended to be made in that han. This government has not at any time interfered with the rights of the United States, as secured by its subsisting compact with the Lew Chew Islands, and before taking such action this government will confer with the Government of the United States.

With respect, &c.,

TERASHIMA MUNEUORI.

His Excellency JOHN A. BINGHAM,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

No. 200.

Mr. Bingham to Mr. Fish.

No. 425.] UNITED STATES LEGATION, JAPAN,
Tokei, August 8, 1876. (Received September 5.)

SIR: By your instruction No. 228, of date the 15th of May last, I am requested to inform the Department whether Germany has made with Japan a treaty similar to that of the convention of 1866, concluded with the Governments of the United States, Great Britain, France, and the Netherlands, and, also, what other powers, if any, have concluded similar treaties with Japan. I have the honor to say, in reply to your inquiry, that, as I have always understood, of the other treaty powers, Belgium, Germany, Spain, Russia, Portugal, Peru, Denmark, Austria, Hungary, Italy, Norway, and Sweden have entered into treaties substantially similar to the said convention of 1866 with Japan. I have the honor to transmit herewith a volume of all the treaties made by the Western Powers with Japan for your information, another copy of which has been kindly promised me by the foreign office. I beg leave, in further answer to your instruction, to call your attention to the treaty made by Japan with North Germany, in the volume inclosed, pages 474–500, and especially to article 7 of the commercial regulations annexed to said treaty, on page 497, which adopts the convention of 1866 with certain reductions, a translation of which reductions will be found on pages 532, 533. This treaty was made in 1869 between North Germany and Japan, and went into operation on the 1st of January, 1870. You will notice by the official translation, on page 532, that, by this treaty, North Germany and Japan reduced the rates of duty prescribed by the convention of 1866 on certain cotton and woolen mixtures specified, some 20 per cent. It would seem that this change of

the convention was made without the co-operation of either of the Western Powers who were parties to the convention of 1866. I infer from the notice given by Japan, on page 532, that the treaty of 1869 with North Germany having been agreed upon, this government assumed that the United States, Great Britain, France, and the Netherlands would comply with the request made in the official communication, (on page 532,) and issue a notification to their countrymen of the reductions agreed upon by the two contracting parties.

I inclose a translation of the seventh article of the convention, page 497, between North Germany and Japan.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 425.—Translation.]

SEVENTH REGULATION.

Duties shall be paid to the Japanese government on all goods landed in Japan according to the annexed tariff. The tariff on imports is in all respects the same as in the tariff convention of June 25, 1866, only the import duties on the following articles are reduced:*

Cotton singlets and drawers, per dozen, 25 cents.

Woolen singlets and drawers, per dozen, 80 cents.

Mixed (woolen and cotton) singlets and drawers, per dozen, 50 cents.

Any Japanese subject shall be free to purchase either in the open ports of Japan, or abroad, every description of sailing or steam vessel intended to convey either passengers or cargo; but ships of war may only be obtained under the authorization of the Japanese government.

All foreign vessels purchased by Japanese subjects shall be registered as Japanese vessels on payment of a fixed duty of 3 loos per ton per steamer, and 1 loo per ton per sailing-vessel. The tonnage of each vessel shall be proved by the foreign register of the ship, which shall be exhibited through the consul of the party interested on the demand of the Japanese authorities, and shall be certified by the consul as authentic.

Ammunition and arms can only be sold to the Japanese government and to foreigners.

No. 201.

Mr. Bingham to Mr. Fish.

No. 441.] UNITED STATES LEGATION, JAPAN,
Tokei, September 19, 1876. (Received October 26.)

SIR: I have the honor to inclose herewith a translation of an imperial message, which His Majesty the Emperor transmitted on the 7th instant to Prince Arisugawa no Miya, president of the Genroin. The Emperor expresses the purpose to consider the fundamental laws of all foreign countries with reference to a national constitution for his own empire.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure.—Translation.]

[From the "Hochi Shimbem," September 11, 1876.]

MESSAGE FROM THE EMPEROR TO THE GENROIN.

In connection with the national constitution which is now to be established, the following imperial message was on the 7th instant delivered to Arisugawa no Miya, president of the Genroin:

"It is our wish to consider extensively the laws of all foreign countries with reference to our national constitution, and thereby to determine our constitutional law.

* See communication on page 532 of Treaties and Conventions.

Do you, therefore, prepare a draft for this purpose and submit it to us. We will then make our choice."

On the following day, the 8th instant, the president made the above known to all the members of the Genroin, and we hear that four of the latter, viz, Hosokawa, Fukuba, Yanagiwara, and Nakojima, were appointed to form a committee of investigation.

No. 202.

Mr. Bingham to Mr. Fish.

No. 443.] UNITED STATES LEGATION, JAPAN,
Tokei, September 20, 1876. (Received October 26.)

SIR: The Japanese department of education has furnished me copies of the second annual report of the minister of education, duplicates of which I have the honor to inclose herewith.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure.—Translation.]

SECOND ANNUAL REPORT OF THE MINISTER OF EDUCATION FOR THE SEVENTH YEAR OF MEIDI.

May it please your Majesty:

I, the acting minister of education, humbly submit to your Majesty the following second annual report of the proceedings relating to education during the seventh year of Meidi, (1874.)

The gradual influence of western civilization on this country and, at the same time, the event of the imperial restoration led to the improvement of the long-standing national institutions, and, first of all, to the enactment and promulgation of an educational code; consequent on this, educational activity prevailed throughout the country, and the people have already begun to appreciate the real value of education; and if it be thus supported and fostered, and, at the same time, in a manner still more adequate to the degree of its progress and still more suitable to the circumstances, there is no doubt that educational prosperity will ere long be attained.

ELEMENTARY SCHOOLS.

The number of elementary schools in all the seven grand school-districts was 20,017, which, as compared with that in the preceding year, shows an increase of 7,459. The whole population of the country is estimated at 33,579,909, (according to the educational reports of the fu and ken,) out of which there were 4,923,272 children of school-age of both sexes. The children of school-age who received education during the year were 1,590,115 in number, and those not of school-age who also received education were 146,452 in number; the total number of the scholars and teachers of both public and private schools was 1,714,768 and 36,866, respectively, which, as compared with that in the preceding year, shows an increase of 568,966 scholars and 11,334 teachers. On an average, there will be 1 elementary school to every 1,677 of the population, 1 scholar to every 20 of the population, and 1 teacher to every 910 of the population.

As to the number of school attendance, according to the educational reports of the fu and ken, the first and second grand school-districts are first in order, the third and sixth grand school-districts are second in order, the fourth and seventh grand school-districts come next, and the fifth grand school-district comes last in order.

In the second grand school-district, the 5 ken of Chikuma, Gifu, Shidzuoka, Hamamatsu, and Tsuruga are the first in point of school attendance; in the first grand school-district, the fu of Tokio and the ken of Yamanashi are the first; in the third grand school-district, the fu of Kioto and the ken of Shikama; in the sixth grand school-district, the 2 ken of Nagano and Wakamatsu; in the fourth grand school-district, the ken of Oda; in the seventh grand school-district, the ken of Fukushima; and in the fifth grand school-district, the ken of Kokura is somewhat superior to the other ken in the same district in point of school attendance. It will, however, be observed that the above is only to serve for inferring the educational condition of the whole country from the number of the school attendance just mentioned.

MIDDLE SCHOOL.

In the seven grand school-districts there were 32 middle schools, which, as compared with those in the preceding year, shows an increase of 10; the number of scholars was 3,153, which also shows an increase of 1,386, and the number of teachers was 174, which also shows an increase of 49. The number of middle schools, however, being very small, a larger increase could hardly be expected. There are many of the scholars in the seven grand school-districts who have already finished the higher elementary course of studies and now wish to pursue the middle-school course; but it is to be regretted that, as there is not as yet a regular establishment of middle schools throughout the country, and as also the educational system is not yet complete, the most ardent and zealous scholars are unable to accomplish their object; middle schools, therefore, should henceforth be organized in each fu and ken, so as to open the way to learning and to induce such scholars to pursue their studies profitably.

NORMAL SCHOOLS.

In the seven grand school-districts there were 53 normal schools, of which 7 belong to the government under the direct control of the educational department, and 45 of which were established at the public expense under the control of their respective fu and ken. As to the proportion of the number of normal schools in each fu and ken, it is here remarked that there were in some cases 6 or 7 normal schools in 1 ken, and in others only 3 or 4 in 1 grand school-district. The total number of students was 5,072, of which 4,998 were males and 74 females; the number of teachers was 292; and since the establishment of the normal schools there have been 1,743 graduates. As the government normal schools have been supported by an appropriation aid from the educational department, everything in them was tolerably well provided; but in regard to the normal schools established at the public expense, they were sometimes connected with foreign-language schools and sometimes with elementary schools; and also on account of the scarcity of teachers at the time of their organization, the course of studies was very simply arranged and the subjects of teaching were confined to the rudiments only, even the school-term being of but a few months' duration. Though the rules and regulations were not complete on account of their being but recently introduced, still it is chiefly the efficiency of the normal school that has imparted to elementary education its prosperous condition. As elementary education has already advanced up to this point, the further progress must be secured by the middle-school education, and therefore, taking this view into consideration, the fu and ken authorities ought to endeavor to institute normal courses for the middle-school education, in connection with the local normal schools, thus making teachers' institutes for the middle-school education. It is perhaps superfluous to say that women are proper educators for children, and that therefore they should also be educated as teachers by providing for them separate departments within the same normal schools. These two subjects are absolutely necessary for laying a sound foundation of education.

COLLEGES FOR SPECIAL SCIENCES.

In the Tokio Kaiseigakko (Imperial University) there are several branches of science taught, such as law, chemistry, engineering, &c. The students belonging to the principal course were 24 in number and those of the preparatory course 267, which, as compared with those in the preceding year, shows an increase of 60. The instructors were 28 in number, of whom 8 were native instructors and 20 foreign. Besides those above mentioned, there were 40 students belonging to the industrial school connected with the same college.

As to the Tokio Igakko, (medical college,) the regulations were recently improved, and several instructors have been invited to give instruction to the students by establishing various departments according to the branches to be taught, such as anatomy, physiology, medicine, and surgery. The students in the first principal class were 32 in number, in the second principal class 33, in the first preparatory class 45, and in the second preparatory class 107. The number of patients treated in the hospital of the college during the seventh year was 2,272, and the number of bodies subjected to anatomical operations was 90. Medical science having advanced up to this point, it is very likely that the students will make rapid progress in the future.

As to the language employed as a vehicle for instructing in special sciences, the English is principally used in the Kaiseigakko. The English language is universally used in oriental countries, and has early been introduced into this country. As the study of this language is quite easy at the beginning and it is not difficult to be mastered, so when students are once collected and teachers appointed, very proficient students can soon be found. But in regard to the medical science, the German language has hitherto been used for instruction, and as the German is exclusively used even at present, the students entering the college must first be taught the German language, and therefore

the students of the Kaiseigakko and those of the Igakko will not advance at the same pace. But it has been already generally admitted that the English language will in future be used as the medium for studying any of the special sciences.

GAIKOKU GOGAKKO.

(Foreign-language schools.)

In the Tokio Gaikokugokakko, four languages, French, German, Russian, and Chinese, are taught. There were 19 native and 10 foreign teachers, and the total number of scholars was 423. The condition of the school is generally progressive, and there are many scholars who will soon complete their studies and will then pursue some one of the higher branches of learning.

The Eigogakko (English-language schools) of the government establishment were and are seven in number; the number of scholars was 1,005; the native teachers were 37 and the foreign teachers 23 in number. As to their condition, those of Tokio and Osaka were the most flourishing, as they were established somewhat earlier than the others; those of Aichi and Hiroshima were next in order, and those of Miyagi, Nagasaki, and Niigata were behind all the others. In the sixth year of Meidi the Osaka and Nagasaki schools counted not more than 749 scholars and 46 teachers; of the latter 25 were native and 21 foreign, including those of the Tokio Gaikokugogakko. But since the establishment of the other five schools in the seventh year the numbers have rapidly increased during the year, as has already been mentioned. Besides the schools above mentioned, there were 82 language schools, both public and private, 69 of which were English-language schools, 7 French-language schools, 1 a German-language school, 3 English and German language schools, 1 an English, French, and German language school, and 1 an English, French, German, and Dutch language school. The number of scholars, both male and female, was 5,122, and that of teachers, both native and foreign, was 248. The number of schools and scholars, as compared with that in the preceding year, shows an increase of 63 of the former and 2,321 of the latter.

TOKIO JOGAKKO.

(The Tokio female school.)

In this school the common elementary branches, the English language, and manual work are taught. There were 6 native teachers and 1 foreign teacher. The scholars were 78 in number, the principal class numbering 71 and the preparatory class 7; which, as compared with those in the preceding year, shows an increase of 40, and is may be fairly said that since the establishment of this school the system of female education has been initiated.

PUBLIC-SCHOOL FUND.

The amount of the income of the public schools of the fu and ken was 4,363,233 yen, and the expenditure was 3,195,278 yen, which, as compared with the preceding year, shows an increase of income of 2,424,135 yen, the average expense for each scholar amounting to 2 yen, 10 sen, and 5 rin. The school-fund now amounts to 3,794,736 yen which, as compared with that in the preceding year, shows an increase of 1,934,775 yen

SCHOOL-DISTRICTS.

The whole country was and still is divided into seven grand school-districts, and in these seven grand school-districts there were 246 middle-school districts and 46,115 elementary-school districts. The number of the elementary-school districts, as compared with that of the preceding year, shows an increase of 160 in the first grand school-district, of 686 in the third grand school-district, of 33 in the fifth grand school-district, of 328 in the sixth grand school-district, and of 851 in the seventh grand school-district; but in the second grand school-district the number has decreased by 90, and in the fourth grand school-district by 117. This is owing to the irregularity with which the division had been previously made. On the whole, however, the number of elementary-school districts, as compared with that in the preceding year, shows an increase of 1,851 in all the seven grand school-districts.

INSPECTORS' VISITATION.

It is almost superfluous to say that the visitations of the inspectors exert a beneficial influence on the state of education; for the mere reports sent up by the local authorities show but faintly the general features of the local education, and though careful

and accurate accounts are given in the reports, still there always seem to occur some defective points in the subjects desired to be known; but when the inspectors are sent on visitation, the most accurate information can be gathered directly from their mouth, in accordance with what they have actually seen, and thus the most important subjects, otherwise difficult to be ascertained, can be clearly known.

As the condition of the educational progress of one fu and nine ken has been clearly set forth by the reports of the inspectors sent out during the seventh year of Meidi, so in the future they will be successively sent out on visitation, so as to use their reports as references for transacting the business of the department. The details connected with the inspectors' visitations during the seventh year of Meidi are mentioned in the report of the inspectors' office.

GOVERNMENT AID FOR THE ELEMENTARY EDUCATION.

The government aid for the elementary education in the fu and ken is a certain amount of money intrusted to each of the local authorities for assisting their several school-districts in providing their children with the means of education. In the fifth year of Meidi, when the educational code was first promulgated, the total amount was fixed at 300,000 yen and granted from the first month of the sixth year of Meidi, in the following manner: namely, the whole amount for one year was granted to those of the fu and ken where the general educational systems had already been determined on, and to those of the ken where the determinations had not as yet been arrived at only a part of the whole amount was granted, counting from the month when such determinations were arrived at. From the first month of the seventh year of Meidi to the third month of the same year, the amount was issued by the inspectors' office, and from the fourth month to the twelfth month of the same year it was paid directly by the educational department. Now the total amount of the government aid during the seventh year of Meidi was 414,226 yen, including the balance from the preceding year as well as the amount for the seventh year of Meidi; and the amount of the expenditure was 75,863 yen for teachers' salaries, 30,802 yen for other salaries, 40,961 yen for books and apparatus, 5,913 yen for building and repairs, 1,997 yen for rents, and 49,029 yen for miscellaneous expenses, making a total of 204,505 yen. However, the various fu and ken use different ways of disbursement, and the amounts of the expenditure are also different, some of them paying out the whole amount of the government aid, while others disburse only a part of the whole and accumulate the balance as funds. This is owing to the fact that at the time of the first promulgation of the educational code the appropriation system was not yet clearly defined and was entirely left to the conveniences of place and time; and though it is out of place here to say much about the amounts of disbursement on the part of the local authorities, which matter is more expediently left to them, still as the government aid is derived from the public revenue to supply the deficiencies on the part of the people, none should, therefore, be justified either to expend or to accumulate it to no purpose, and therefore such systems of disbursement should gradually be improved according to the progress of the local education.

Education is a great work to develop and cultivate man's intellectual and moral capacities, so as to secure his highest well-being; and if education be generally diffused among the masses of a nation, the national spirit will be raised and the general welfare and comfort of the community secured. As all these benefits can ultimately be traced to no other cause than education, it seems very clear that the sphere of education is very wide and important; therefore, the degree of civilization of a nation can be ascertained by her educational progress. Now in estimating the educational progress of foreign countries, it will be seen that there are great diversities in the degree of this progress. For instance, in the United States of America there are 20 pupils to every 100 of the population; in Switzerland and Germany the ratio is the same; in Holland, Denmark, Sweden, England, France, Belgium and others, there are over 13 pupils to every 100 of the population; but in this country there are not more than 5 pupils to every 100 of the population, which fact shows that many people grow up uneducated in this country. If, therefore, it is desirable that the people of the whole country do not grow up uneducated, the law of compulsory education must be established; for it is traceable to no other cause but compulsory education that in Europe and America there are scarcely any children who do not attend schools. In recent times, all governments have taken to themselves the power of education from the hands of the clergy, and have determined that it is one of their duties to encourage children to enter schools and to give them instruction in the most important branches of human knowledge, and it has also since been decided by those governments to put the law of compulsory education into operation. Now, though it is not impracticable to adopt this law in this country, still the feelings of the people ought first to be taken into consideration, and a favorable opportunity will be an essential requisite for its adoption. Before concluding this report, there is another subject which ought to be noticed here, namely, the educational census, which should be taken at stated inter-

vals of time and by means of which the proportions of the sexes and ages of the educated and uneducated can be ascertained at once, and consequently the extent and progress of the local education clearly appreciated.

The two subjects above mentioned, therefore, together with the statistical tables, as well as the reports from the several fu and ken and from the other colleges and schools, are humbly submitted.

FUJIMARO TANAKA,
Acting Minister of Education, Tokio, Japan.

The 12th month, the 8th year of Meidi.

No. 203.

Mr. Bingham to Mr. Fish.

No. 453.] UNITED STATES LEGATION, JAPAN,
Tokei, October 11, 1876. (Received November 7.)

SIR: On the 3d instant I received from the foreign office a copy of the "National-Bank Laws," a translation of which, made by Mr. Thompson, I have the honor to inclose herewith for the information of the Department.

I am informed that this government has issued under these laws, as lawful money in this empire, about $100,000,000 in paper bills, for the redemption of which in coin no provision of law seems to exist, and which are received by the people at par in all transactions.

You will observe by articles 48 and 50 it is provided that these bills issued by the government to the banks shall be received in the same manner as coin in all government bureaus and banks, and in payment of taxes, salaries, and all other debts and dues except the interest on bonds and customs duties; and that those who refuse to receive the notes or attempt to hinder their circulation, or do any other unlawful act affecting this currency, shall be punished.

I have, &c.,

JNO. A. BINGHAM.

MEXICO.

No. 204.

Mr. Foster to Mr. Fish.

No. 344.] LEGATION OF THE UNITED STATES,
Mexico, October 19, 1875. (Received November 6.)

SIR: I am at last able to inform you that a portion of the assassins of the American citizen, Rev. John L. Stephens, who was murdered by a religious mob on the 2d of March, 1874, have been punished.

The governor of the State of Jalisco, under date of the 16th instant, has telegraphed the minister of war that on that day five persons were executed in compliance with the sentence which condemned them to capital punishment for the murder of John L. Stephens and Jesus Islas.

I am informed, unofficially, that the trial of other prisoners charged with participating in the mob is still pending.

I am, &c.,

JOHN W. FOSTER.

No. 205.

Mr. Foster to Mr. Fish.

No. 347.] LEGATION OF THE UNITED STATES,
Mexico, November 8, 1875. (Received November 22.)

SIR: In my dispatch No. 293, of May 25 last, I gave an account of the application of the Executive to Congress to have conferred upon it "extraordinary faculties" in the departments of war and the treasury; and in my dispatch No. 298, of June 5 following, reported the action of Congress conferring these powers upon the President.

By the terms of the law, the "extraordinary faculties" were to expire within one month after the opening of the new Congress on the 16th of September last. These powers have been again conferred upon the Executive until one month after the next session of Congress by an almost unanimous vote of the Chamber of Deputies, and on the 27th ultimo by a vote in the Senate of 28 to 12, after a very spirited opposition.

Thus far it is to be noted that the President has made very little use of the "extraordinary faculties," and especially not in a very arbitrary manner; and the friends of the measure claim that its good effect is not so much in its exercise as the fear which its possession by the President inspires among conspirators and revolutionists.

I am, &c.,

JOHN W. FOSTER.

No. 206.

Mr. Fish to Mr. Foster.

No. 268.] DEPARTMENT OF STATE,
Washington, November 16, 1875.

SIR: I transmit a communication of yesterday addressed to this Department by the Secretary of the Interior, recommending that certain remnants of the Kickapoo and Lipan tribes of Indians, who cannot be induced to return to the United States, be removed to the interior of Mexico, which would make their incursions into Texas more difficult. Mr. Chandler accordingly suggests that the Mexican government issue such orders to their local authorities as may be necessary to enable Mr. Edgar, the special commissioner on the part of this Government, to make the removal referred to.

You will consequently bring the subject to the attention of the Mexican minister for foreign affairs, and will express a hope that the instructions desired may be given accordingly.

I am, &c., &c.,

HAMILTON FISH.

No. 207.

Mr. Richardson to Mr. Fish.

No. 364.] LEGATION OF THE UNITED STATES,
Mexico, December 24, 1875. (Received January 24, 1876.)

SIR: I have the honor to state that, in conformity with the instructions of your dispatch No. 268, I addressed a note on the 27th instant

to Mr. Arias, of the Mexican foreign office, calling the attention of his government to the request of Mr. Chandler that the Mexican government should issue such orders to its local authorities as might be necessary to enable Mr. Edgar, the special commissioner on the part of the United States, to remove the remnants of the Kickapoo and Lipan tribes of Indians, who cannot be induced to return to their reservations, to the interior of Mexico. In a reply of December 30, Mr. Arias states that orders have already been issued to the local authorities to assist Mr. Edgar in case he desires anew to induce the Indians to return to their reservations; but that if he desires that they be removed to some determined place in the interior, that place should be specified by the governor of the State of Coahuila, in order that the federal government may decide what is proper.

I transmit herewith my note to Mr. Arias, and also a translation of his reply to the same.

I remain, &c.,

D. S. RICHARDSON.

[Inclosure 1 in No. 364.]

Mr. Richardson to Mr. Arias.

LEGATION OF THE UNITED STATES,
Mexico, December 27, 1875.

SIR: I have the honor of transmitting herewith the copy of a communication addressed to the Secretary of the Department of the Interior, recommending that certain remnants of the Kickapoo and Lipan tribes of Indians who cannot be induced to return to the United States, be removed to the interior of Mexico, thereby making their incursions into Texas more difficult.

The number of these Indians now remaining who refuse to remove to the United States is about 80 Kickapoos and 50 Lipans.

Mr. Chandler, the Secretary of the Department of the Interior, suggests that the Mexican government issue such orders to its local authorities as may be necessary to enable Mr. Edgar, the special commissioner on the part of the United States Government, to make the removal referred to.

I have, therefore, to respectfully call your honor's attention to this subject, expressing at the same time the hope that your government will see fit to give the desired instructions.

It is with pleasure, &c.,

D. S. RICHARDSON.

His Honor JUAN D. ARIAS,
Chief Clerk of Department of Foreign Affairs, Mexico.

[Inclosure 2 in No. 364.—Translation.]

Mr. Arias to Mr. Richardson.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, December 30, 1875.

I have received your honor's note of the 27th instant, with which you are pleased to accompany a copy of the communication directed to the Secretary of State of the United States by the Minister of the Interior of the same country, in which he recommends that the remnants of the Kickapoo and Lipan Indians, who have been unwilling to return to the United States, may be removed to the interior of Mexico.

Your honor states that Mr. Chandler, the Minister of the Interior, desires that the government of Mexico may issue the necessary orders to enable Mr. Edgar, the special commissioner of the United States, to carry into effect such removal, and your honor concludes by expressing the hope that the desired orders may be given.

With the concurrence of the President, I have the honor to reply to your honor, that the receipt of your said note coincided with the receipt of a communication from the governor of the State of Coahuila, in which he announces the arrival of Mr. Edgar, and

that said governor has already been advised to lend the necessary aid in case Mr. Edgar desires anew to induce the Indians to return to their reservations in the United States; but that if he desires that they be removed to the interior, to some determined place, that the said governor should inform this department of the points indicated to him, in order that, as a matter pertaining exclusively to the government of the union, it may decide upon what is proper.

I, &c.,

JUAN DE D. ARIAS.

His Honor D. S. RICHARDSON,
&c., &c., &c.

No. 208.

Mr. Foster to Mr. Fish.

No. 375.] LEGATION OF THE UNITED STATES,
Mexico, February 1, 1876. (Received February 14.)

SIR: In the legation dispatch No. 364, of December 24 last, the answer of the Mexican government is given to the request of the Secretary of the Interior that said government would issue orders to the local authorities to enable Mr. Edgar, the special commissioner, to remove the remnants of the Kickapoo and Lipan Indians to the interior of Mexico, which answer was to the effect that information which had been asked of the governor of the State of Coahuila was necessary before the action of the government could be determined.

On the 21st ultimo Col. Thomas G. Williams, special commissioner for the removal of the Mescalero Apache Indians, located in the State of Chihuahua, arrived in this city and communicated to me the result of his mission, as far as he had been able to make any progress, a copy of whose communication to me I inclose. From this it will be seen that the government of Chihuahua and the Mexican Indian commissioner had effected a satisfactory arrangement with these Indians in the shape of a treaty which provides for removing them to reservations in the interior of the country, so distant from the frontier as to effectually put an end to further incursions into Texas. The federal government of Mexico had not, however, approved of such treaty, and Colonel Williams and the Mexican commissioner deemed it necessary to come to this capital in order to represent the situation to the Mexican government and this legation, in order that an early and desirable conclusion might be reached.

On the 26th and 28th ultimo I had conferences with Mr. Arias, acting minister of foreign affairs, and urged the importance of the Mexican government making a final and satisfactory settlement of the Rio Grande frontier Indian question. I stated that all the Indians who could be persuaded to return to their reservations in the United States had already left Mexico; and that if his government declined, for want of authority or for other reason, to compel them to return, the obligation would rest upon it to adopt such measures as would prevent them from committing depredations in the United States; and that I agreed with our commissioners in the opinion that this could only be accomplished by the removal of the Indians to some distant localities in the interior of Mexico.

I further informed him that Colonel Williams, commissioner for the Indians in Chihuahua, was now in this city, and that Mr. Edgar, commissioner for those in Coahuila, was in Saltillo, both awaiting action on the part of the Mexican government; and that the present afforded the most opportune occasion to finally dispose of this long-standing and vexatious question.

I also stated that these commissioners were in Mexico merely to facilitate and second the action of his government; and that the United States were only interested in protecting their citizens by securing the removal of these Indians from the frontier, the method and locality of their removal being a subject to be determined by the Mexican government. Mr. Arias assured me that his government was entirely in accord with the views expressed by me; that it was ardently desirous of promptly and effectually settling the Indian question; and that it was resolved to remove them to some distant point in the interior, and keep them under the surveillance of the war department. He said that there was no difference materially affecting the question between the executive and the governor of Chihuahua; that it was only desired to ascertain the best method of securing the removal of and maintaining control over the Indians; and that the minister of war would be very glad to have the benefit of the information and experience of Colonel Williams in coming to a conclusion upon the subject.

On yesterday, by special invitation and appointment, Colonel Williams had a conference with the minister of war and the Mexican Indian commissioner of Chihuahua, with special reference to the Mescalero-Apaches; and Colonel Williams is confident that some early and successful measures will be taken, which will accomplish the object of his mission.

I will continue to give the subject my attention, and hope at an early day to be able to report the entire removal of the Indians from the Rio Grande frontier.

I am, &c.,

JOHN W. FOSTER.

[Inclosure.]

Mr. Williams to Mr. Foster.

CITY OF MEXICO, *January* 25, 1876.

SIR: I have the honor to submit the following statements:

Having been charged by the Hon. Secretary of the Interior of the United States with the duty of endeavoring to remove to a United States reservation from the borders of Mexico and Texas certain bands of Mescalero Apaches, who for many years have been committing depredations upon citizens of the United States in Texas, and generally taking immediate refuge upon Mexican soil in the southeastern part of Chihuahua, I last year proceeded to that State. The governor, Señor Don Antonio Ochoa, evinced a cordial spirit of co-operation in the work, and a sincere desire to see a speedy and permanent end put to the depredations of those Indians.

With that view, he requested Col. Joaquin Terrazas, an officer of the Mexican army stationed in that State as lieut.-inspector of military colonies, to act with me. And the governor also selected and designated Señor Don Juan Zubrian, a prominent citizen of Chihuahua, to act as a special commissioner of the State with me. At various times, first in company with Colonel Terrazas, and subsequently with Señor Don Juan Zubrian, I met the Mescalero Apache Indians at San Carlos, a village about 80 miles southeast from Presidio del Norte, and also at the last-named place.

It was finally evident from several causes and reasons that the Mescaleros were not willing to accept the offers made to them by me of removal to a United States reservation. The most influential reason was because of the strong opposition of certain leading citizens of Presidio del Norte (now called Ojinaga) and of San Carlos to the removal of the Indians; their trade was sometimes very profitable. The chief, Arzate, told me himself of some of the stories told to him by those citizens.

The Indians expressed at last a strong desire to be permitted to remain permanently and peacefully located on Mexican soil, provided something could be done by the Mexican government to keep them from starving if they should agree to stop stealing. With this object some of the principal chiefs went to Chihuahua, the city, to see the governor, last May.

About the 15th or 20th of that month a formal treaty was made and signed by Col.

Joaquin Terrazas and Señor Don Juan Zubrian, on the part of the governor, and by the Indian chiefs Arzate and Imais. A copy of this agreement or treaty was furnished to me by Governor Ochoa, with the information that it would have to be approved by the federal authorities at Mexico. By this treaty, a copy of which was duly sent by me to the Hon. Commissioner of Indian Affairs, several important points were secured, even more satisfactory and beneficial to us than if the Indians had consented to remove to our reservations; and these points are, that the Mexican government agree to designate the limits of a reservation in Chihuahua for those Indians, to furnish them with certain subsistence-stores and clothing at stated terms, to exercise a constant supervision and control over them, to establish a military force on the reservation, to require military service of them, and also, in case of any future depredations upon Texas, the guilty parties were to be arrested and delivered to the United States authorities for punishment, &c.

A copy of the said treaty I hand you herewith, together with a copy of Governor Ochoa's letter, and a copy of the reply of the President of Mexico.

By instructions from the Hon. Secretary of the Interior I returned to Chihuahua last month to ascertain if the arrangements contemplated by the treaty had been effected. Upon arrival there Governor Ochoa informed me that the President of Mexico had not approved the treaty, but had indicated a design to commence a new policy toward these Indians.

The governor said to me verbally, and officially in writing, that he felt sure the authorities at Mexico did not yet clearly understand the case and did not appreciate the importance of immediately ratifying the treaty made last May, and he therefore suggested and urgently requested me to come to this city for the purpose of putting the subject before you for such action as you might deem best and proper.

He also at the same time sent Señor Don Juan Zubrian to Mexico to communicate directly to the authorities all the reasons for a prompt approval of the treaty. Señor Zubrian is now in this city on that business.

Whatever may be the ultimate action of the Mexican government, the governor and people of Chihuahua, Don Juan Zubrian, and myself all concur in believing that if this treaty be not adopted and the Indians thereby gradually accustomed to a judicious control and constraint, instruction, &c., a costly war of extermination must be forthwith commenced, involving, of course, a great loss of life and property and expenditure of money far greater than would be required to take control of the Indians on a reservation for many years; they must be controlled and fed, or forthwith be killed.

If it should meet with your approval I would very respectfully beg that an early opportunity be taken to bring this matter to the notice of the Mexican government, and of requesting that the said treaty be carried out at once, inasmuch as it would seem to be the first and best step toward a permanent settlement of Mexican Indian troubles on the frontier of Texas.

I am, &c.,

THOMAS G. WILLIAMS.

Hon. J. W. FOSTER,
United States Minister Plenipotentiary to the Republic of Mexico.

No. 209.

Mr. Foster to Mr. Fish.

No. 378.] LEGATION OF THE UNITED STATES,
Mexico, February 2, 1876. (Received February .)

SIR: The country continues in much the same condition as reported in the last dispatches upon current events. Disorders and local revolutionary movements are prevalent in different portions of the republic, but they have not been able to make head against the federal troops, being driven from the field and scattered wherever they congregate in any considerable numbers, in many cases to gather again in the mountains to repeat their petty depredations upon defenseless towns and travelers. The disorders in the State of Michoacan, noticed in previous dispatches, still continue, but do not appear to have gathered strength, although the government thus far has not been able to suppress them. General Escobedo, division commander, was sent to that locality more

than two months ago to direct the movements of the federal forces, but the guerilla warfare is still carried on with about the same results as heretofore, the rugged nature of the country making it very difficult to put an end to it.

The discontented and revolutionary elements in the country have apparently been operating without any system or concert of action, but recently there appears to have been something of concentration upon Gen. Porfirio Diaz, the leader of the unsuccessful revolt against President Juarez in 1871–'72. He was a member of the last congress, and has recently been residing in this capital; and it is alleged that the administration made overtures to him a few months ago to accept a foreign appointment, which he rejected. In December last he left the country and went to New Orleans and thence to Brownsville, Texas, and is now reported as on the American side of the Rio Grande, in communication with revolutionary leaders in Mexico, concocting a rising against the present government.

The Diario Oficial has announced that his departure from the country was without any known business-object, and that his movements give occasion for suspicions of disloyalty. A pronunciamiento has recently appeared, purporting to have been issued by him, but its authenticity is doubtful, and his friends in this city deny that he is its author.

The State of Sonora has been for three months past distracted by insurrections against the State government, the one headed by General Serna, and the other by the Yaqui Indians, an industrious agricultural tribe living in the south part of the State. Serna's operations have been in the northern part of the State. His band was driven over the line into Arizona by the troops of Governor Pesquiera, and it is reported that he has again returned to Mexican territory, influenced, in part at least, by the movements of the American commander in Arizona.

There are conflicting reports as to the success and defeat of these revolutionary movements at this date, but as yet unconfirmed.

The contest has heretofore been participated in only by the local forces of the State; but the general government has just despatched a federal force from this city, *via* Acapulco, to interpose its authority to restore order.

The consul at Guaymas reports business as utterly prostrate in the State in consequence of these troubles. Reference has heretofore been made in my dispatches to the political differences which exist in the State of Jalisco between the adherents of the federal and State administrations.

A double set of senators and deputies was sent up to the Congress of the Union representing the two parties, and, as already stated, the members representing the state party were rejected. The contest was thus remitted to the state, where the election for the state legislature was held in December last. Double elections took place, and two legislatures were chosen, representing the two parties. These legislatures are now in session in the city of Guadalajara, and their conflicting exercise of authority is creating much excitement in that State, and a certain disquiet elsewhere in the republic. On the one side the federal supreme court has been appealed to, and on the other a decree has been passed impeaching the governor, and with a view to his deposition. Meanwhile federal and State troops are concentrated in the State capitol, and an armed conflict is feared. It is charged that this concentration of troops has left the other districts of the State unprotected, and that they are ravaged by robber bands.

The subject of the election of President of the republic for the next

term, which occurs in July, is attracting much attention in the public press and political circles. A number of newspapers have favorably announced Mr. Lerdo as a candidate for re-election, and others have taken strong grounds against his candidacy, some alleging that the party which supported his first election was pledged against the principle of a second presidential term, and others taking the ground that his re-election will result in a revolution. No other candidate has as yet been announced.

It may be of interest to notice that, before the close of the last session of Congress in December, the minister of finance stated that he expected to provide in the next budget of appropriations for a compliance with the terms of the treaty with the United States in relation to claims, anticipating a balance against Mexico, which would require an annual appropriation of $300,000.

Sr. D. E. de Muruaga y Vildosola, the new Spanish minister plenipotentiary, presented his credentials to the President on the 23d of December, and Mr. Rudolph Le Maistre, minister resident of Germany, was received on the 7th of January.

I am, &c.,

JOHN W. FOSTER.

No. 210.

Mr. Foster to Mr. Fish.

No. 389.] LEGATION OF THE UNITED STATES,
Mexico, March 8, 1876. (Received March 27, 1876.)

SIR: I have received a note from the acting minister of foreign affairs, dated the 29th ultimo, of which I inclose a copy, in which he informs me that his government has decided upon the removal of the Indians now in the State of Chihuahua, from the Rio Grande border to Mapimi, a point distant from the frontier, where they may be better guarded.

Regarding this action as highly conducive to the peace of that frontier, in acknowledging the receipt of Mr. Arias' note, I took occasion to tender to his government thanks for its resolution.

I am, sir, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 389.—Translation.]

Mr. Arias to Mr. Foster.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 29, 1876.

SIR: Referring to the note of Mr. Richardson, secretary of your legation, dated the 27th of last December, I have the pleasure of inclosing to your excellency the copy of a communication which I have just received from the department of war and marine, in which you will see that the removal of the Kickapoo Indians from the State of Chihuahua to Mapimi, a point distant from the line of the Bravo, and at which they can be better guarded, without preventing their removal, at an opportune time, to more distant places, has been decided upon.

I gladly improve this opportunity of reiterating to your excellency the sentiments of high appreciation and very distinguished consideration with which I am your excellency's obedient servant,

JUAN DE D. ARIAS.

[Inclosure in 1 in No. 389.—Translation.]

DEPARTMENT OF STATE, WAR, AND MARINE—SECTION OF STATE, FIRST—TABLE OF MILITARY COLONIES.

In answer to your communication of the 12th of the present month, in which you inclose one addressed to you by the governor of the State of Chihuahua, who states that Mr. Edgar, commissioner for Indian affairs of the United States of America, wishes to arrange the removal of the Kickapoo tribe to some point in the interior of the republic, distant from the boundary-line of the Rio Bravo, I make known to you, with the concurrence of the President, that it has been decided that the Indians under consideration be removed to Mapimi, at which point they will be distant from the line of the Bravo, without detriment to further removal, in order to prevent their committal of depredations on the other side of the said rio.

Independence and liberty. Mexico, February 16, 1876.

MEJIA.

[Inclosure 2 in No. 389.]

Mr. Foster to Mr. Arias.

LEGATION OF THE UNITED STATES,
Mexico, March 8, 1876.

SIR: I have the honor to acknowledge the receipt of your honor's note of the 29th ultimo, in which you inform me of the resolution of your government to remove the Indians now in the State of Chihuahua, near the frontier of the United States, to Mapimi, a point distant from the Rio Grande border, where they can be better guarded, without prejudicing their removal at a more opportune time to more distant places.

Expressing the hope that nothing may occur to prevent the execution of this resolution, and tendering my thanks in behalf of my Government for this manifestation of the desire of the Mexican government to remove the sources of trouble on the frontier,

I remain, &c.,

JOHN W. FOSTER.

No. 211.

Mr. Foster to Mr. Fish.

No. 395.] LEGATION OF THE UNITED STATES,
Mexico, March 28, 1876. (Received April 17.)

SIR: I transmit herewith an article and translation thereof from the Daily Federalista, one of the leading newspapers of this city, upon the present commercial and political condition of Mexico. This gloomy and unfavorable view of affairs is quite commonly entertained, especially in commercial circles, throughout the country.

I am, &c.,

JOHN W. FOSTER.

[Inclosure.—Translation.]

[From the Daily Federalista, Mexico, March 24, 1876.]

THE CRISIS IN SILVER.

Something more terrible than the revolution should occupy the attention of Mexicans at present. The enormous fall which the price of silver has had lately in European markets, is a lively topic which is given to all Mexican capitalists, to commerce in general, and, it may even be said, to all the nation. The vital strength of the country finds itself seriously embarrassed; all know that the mines are what sustain in Mexico the commercial movement with foreign ports, inasmuch as the agricultural

and industrial exportations are insufficient to bring to our markets the necessary goods. Therefore, it is easy now to foresee the time when the greater part of the mines may have to suspend all work because of their not producing sufficient to pay for operating them, except in exceptional *bonanzas*.

On the introduction of the American trade-dollar, which competes with our eagles, the monetary contracts made in Europe have co-operated with the discovery of prodigiously rich mines in the American Far West to the depreciation of silver. As the first result of this crisis, the Mexican dollar loses its value, bullion is depreciated, exchange on Europe tends to a formidable advance, transactions become difficult, the price of gold rises rapidly, exportations diminish, importations cost more, many houses will close, and foreign goods will become unusually scarce.

If Mexico wishes to resist this prospect of ruin which threatens her, it is necessary that national industries profit without delay by this state of things, and that the interested parties introduce in these industries, at any cost and without delay, the perfections which may give to their products the qualities which they lack; that agriculture be stimulated; that Congress endeavor to secure the immigration so many times promised and frustrated or opposed; that invested capital search among mining-works for objects less subject than silver to those depreciations which are perhaps determinate, such as gold, platinum, quicksilver, iron, lead, copper, and coal.

But what a sad future awaits us! When a sudden catastrophe threatens to dry the principal fountain of our public riches, certain party men, who constitute themselves of their own accord political regenerators, put the country into a disastrous conflagration, add the evils of fratricidal war to those which rapidly come upon us on account of our disunion, and, without caring for other than ephemeral and personal questions, shed human blood in torrents, and drain the forces which are so much needed in order to counteract the enormous pressure of the financial crisis.

For us, the future of Mexico cannot be more gloomy; if civil contests, eternal obstacles to progress and prosperity, do not soon have an end, it will be impossible to attend in time to curing the evils which threaten us; none of the remedies to which it is yet feasible to resort can be employed, and to our present misery and poverty new causes of political and social degeneration will be added. Mexico, now almost in the last place of civilized nations, being inferior to all those of Europe and to a large part of those of America, (as the United States, Brazil, Chili, the Argentine Republic, Peru, and Uruguay,) to the English colonies and other regions of Asia, Oceanica, and Africa, will tend more and more toward barbarism, and if she already has so little imporance in the assembly of nations, she will cease completely to have any.

And we have deserved it; it has been our lot to possess the most rich and fertile soil of the earth, and we are unworthy of that privilege. Let us continue as at present, and the day will come in which we will have to cede our rights to the country to men more skillful, worthy, and cultivated. Sad truth, but the truth.

For God's sake, let us avert these dangers.

No. 212.

Mr. Foster to Mr. Fish.

No. 398.] LEGATION OF THE UNITED STATES,
Mexico, April 3, 1876. (Received April 17.)

SIR: The second session of the eighth Congress of the union was opened on the 1st instant, with the usual address of the President of the republic, a copy and translation of which address I inclose herewith.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 398.—Translation.]

[From the Two Republics of April 3.]

PRESIDENT LERDO'S ADDRESS.

The national Congress assembled on the 1st instant, and was opened by the following address from President Lerdo:

"CITIZEN DEPUTIES AND SENATORS: The meeting of Congress on the days designated by the fundamental law is always an event worthy of being celebrated. It is not only in normal times a new evidence of the regular march of the institutions, but, when any

disorder occurs, it is a new proof that the observance of the laws will be maintained, the only means of insuring the prosperity and progress of society.

"It is very satisfactory that Congress opens the second period of its sessions, in which, besides giving attention to what may require legislative action, it will have to devote itself, with the preference which the constitution establishes to the examination of the annual budget, so important in relation to all the branches of the public service.

"The international relations which Mexico cultivates are happily preserved in the greatest harmony. Conducting itself in everything with equity, the government will take care to maintain and extend these relations in a spirit of cordial good-will.

"In conformity with the convention of the 4th of July, 1868, the mixed commission established in Washington has finished its labors. Their final result cannot as yet be known, as the commission having disagreed in many cases, it has been necessary to submit their opinions to the decision of the arbiter, whose duties will terminate next June.

"In internal affairs there is to be lamented the fact that the public peace in certain localities has been disturbed. This occurred just when it was possible to assure the public that the bands existing in Michoacan for a year past were destroyed to such an extent that the events in other places have not been sufficient up to the present time to revive them.

"With some exceptions, the same persons who have already taken part in various other disturbances of the public order figure among the revolutionists. Neither laws of amnesty for past acts, nor the full enjoyment of social rights and guarantees, nor even the kindness with which they have frequently been treated, have been sufficient to restrain them from seeking to place themselves above the laws.

"The government has not only a strict duty to perform in combating the rebellion under all circumstances, but it has also a firm conviction that the time has passed in which those who appealed to the force of arms could prevail, a conviction in favor of respecting the laws being now general, as also the good disposition of the laboring and respectable citizens, who know how to appreciate the benefits of peace obtained through the enjoyment of a just liberty. With the efficient aid of the representatives of the people and the co-operation of the State authorities, it will be possible in a short time to repress the recent disturbances, as has been lately done in certain places, by the discipline, the valor, and loyalty of the national army, which has given so many proofs of its republican virtues.

"The executive has demonstrated his desire to use as little as possible the power which Congress thought proper to concede to him. In regard to supplying men for the army, far from its increase, he resolved upon its diminution, and had commenced to carry it into effect when the insurrection of the Sierra of Oaxaca occurred, which was developed from incidental causes. In respect to public expenses, notwithstanding their considerable increase in order to combat the revolutionists of Michoacan during one year, by means of strict economy the idea of new contributions was not entertained until circumstances made the imposition of a tax inevitable, which it was sought to make just in its basis and in the manner of collecting it.

"In spite of the obstacles occasioned by circumstances, improvements of public interest already commenced have been carried on as far as said obstacles would permit. Care has likewise been taken to give attention as far as possible to the different branches of the public service.

"The constant conduct of the government has been well known, protecting the exercise of every liberty and respecting all opinions. It can be affirmed that the emission of ideas, especially by the press, has never had greater freedom. With the firm purpose of complying with the laws, and of causing them to be obeyed, the government will omit no means whatever which may have for their object the protection of the liberty of the people in the legitimate exercise of all their rights.

"It is very pleasant to see the national Congress assembled anew, which, animated as ever by patriotism, will endeavor to act in its deliberations with the most exalted intelligence for the public good."

No. 213.

Mr. Foster to Mr. Fish.

No. 403.] LEGATION OF THE UNITED STATES,
Mexico, April 22, 1876. (Received May 8.)

SIR: The revolution has steadily increased since the date of my last dispatch on current events, and is to-day stronger than at any time since its commencement. The principle proclaimed by the plans of the

various chiefs is "no re-election to the presidency," and they allege as the reason for the revolution in advance of the election that President Lerdo designs to secure his re-election by force, intimidation and fraud, and that by the use of the army and his influence with the governors of States all opposition would be useless and the free choice of the country stifled.

Public expectation as to the activity and energy to be displayed by the national army has been greatly disappointed. Only in the State of Jalisco has it been able to make successful head against any serious attempt at revolt. In this State, which at the outset promised to be the chief center of the revolution, the federal government has been able to scatter or drive into the mountains all bands of pronunciados. General Allatorre, who had been sent by the government to restore the State of Oaxaca to the national authority, and of whose repulse I gave an account in my previous dispatch, after having been twice re-enforced, has been compelled to fall back to Tehuacan, in the State of Puebla, and is now at Orizaba, in the State of Vera Cruz.

Over two thousand troops, detached from General Escobedo's command in Michoacan, Guanajuato, and Queretaro, (which States are comparatively quiet,) passed through this city at the beginning of this month to re-enforce the army in the State of Puebla, where is at present the greatest concentration of government forces.

A large portion of the State of Vera Cruz is in the possession of the revolutionists, including the capital, Jalapa; and several light encounters have occurred, but without decided results. The garrison in the castle of San Juan de Ulloa, in the harbor of Vera Cruz, "pronounced" on the night of the 17th instant, overpowered their superior officers, released the prisoners, near three hundred in number, and many of the worst class, and abandoned the fort. In passing to the shore they were fired upon by the troops of the city, quite a number killed, wounded, and captured, but the majority escaped. It is reported that a number of both soldiers and prisoners captured were shot by order of the commanding officer.

The States of Oaxaca, Jalisco, Sonora, Tlascala, Nuevo Leon, and Vera Cruz, owing to the revolution, have been declared under martial law, or "in state of siege," by the President. The States of Puebla, Morelos, Guerrero, Mexico, Hidalgo, and Tamaulipas are also much disturbed.

Gen. Porfirio Diaz, the chief leader of the revolution, crossed over from Texas into Mexico the latter part of March, and issued a new or modified "plan," in which it is proposed that after the deposition of President Lerdo by the success of the revolution, the chief-justice of the supreme court and *ex-officio* Vice-President shall act as President *ad interim* until a new election is held, provided the chief-justice shall, within a specified time, signify his assent to this plan. Mr. Iglesias, the chief-justice, immediately after the publication of the plan in the newspapers of this city, wrote a letter to the official journal rejecting this and all other revolutionary projects, declaring his determination to observe strictly the constitution.

On the 2d instant General Diaz captured Matamoras, on the Rio Grande, almost without a struggle, the greater portion of the garrison accepting his cause. This is the most important success yet gained by the revolutionists, as it gives them the key to the frontier, and also enables them to obtain arms and military supplies from abroad. The presence of General Diaz in the country and this success have greatly encouraged the pronunciados elsewhere. The government is as rapidly

as possible concentrating its forces of the northern and central States at Monterey, under General Escobedo, commanding that department, to resist the advance of General Diaz; and a decisive struggle is anticipated in that quarter at no distant day. General Rocha, whose disappearance from his quarters under arrest was noticed in my last dispatch, after being joined by a few personal followers and closely pursued by the government forces, finally surrendered himself, and has been brought to this city. His friends deny that he had any intention to take up arms against the government.

The extraordinary tax of one per cent. declared by the President, as stated in my No. 390, of March 11, is being quietly paid in this city and elsewhere in the republic still under the federal control.

The lower house of congress, after an animated discussion, voted on the 18th instant, by 136 against 35 votes, to extend the exercise by the President of "extraordinary faculties" in war and finance until the next session of congress. The small opposition to this measure on the final vote was a general surprise, as it had been claimed that the President had greatly lost ground in congress during the past few months; but it must be confessed that this vote does not indicate it.

The railroad between this city and Vera Cruz has been destroyed at different points by the revolutionists, and traffic has been practically suspended for more than one month past. Mail communication between these cities is uncertain and difficult, as also with a great portion of the country. The diligences are detained and robbed in all directions, and travel throughout the country is greatly interrupted and dangerous.

The work on the Central Railroad to the interior has been suspended on account of the political troubles; the commerce and all industries are greatly embarrassed.

The President has recently issued a decree modifying the present tariff of imposts, especially with a view to a greater protection of certain articles of home manufacture; the details of which will be communicated to the Department by the consul-general.

I am, &c.,

JOHN W. FOSTER.

No. 214.

Mr. Foster to Mr. Fish.

No. 407.] LEGATION OF THE UNITED STATES,
Mexico, May 4, 1876. (Received May 29.)

SIR: In my No. 405, of the 29th ultimo, I referred to the discussion in the press of this capital of the resolutions presented to the House of Representatives by the committee on Texas border troubles, authorizing the passage into Mexico of United States troops in pursuit of raiders. This subject having been specifically directed to the attention of the Diario Oficial, and the opinion of the government requested from this official organ by the Siglo XIX, one of the opposition newspapers, the Diario Oficial has briefly responded. I inclose copies and translations of the articles from both the Siglo and the Diario.

As indicating the wide-spread feeling on the subject, and the exaggeration of the danger of an international conflict growing out of the proposition of the committee, I inclose a copy and translation of a petition of students of the principal college of this city, addressed to the minister of war.

I also transmit a copy and translation of an article upon the subject, written by Hon. Matias Romero, the former minister of the Mexican Republic in Washington, afterward minister of finance, and at present a deputy of the National Congress. It is the most correct and the only impartial statement of the question which has appeared in the Mexican press; and Mr. Romero has by its publication rendered an important service to both countries.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 407. Translation.]

[El Siglo Diez y Nueve, Mexico, May 1, 1876.]

QUESTION OF DIGNITY AND PATRIOTISM.

* * * * * * *

Any one may comprehend the force and importance of the words which the Texan commissioners use in an official document directed to the American Congress, and we do not wish to comment upon them because they offend the patriotic susceptibility of the Mexicans, but the pen falls from our hands upon remembering that the government, by means of the only authorized organ which it has in the press, has not raised its voice in protestation against the outrage which, as a free and independent nation, is committed upon us.

In consideration of the silence which the Diario Oficial observes in so delicate an affair, it occurs to us to ask: What criterion does the government of Mr. Lerdo follow in its international relations? Who inspires that incomprehensible conduct that one day causes it to fill its paper with useless and odious comparisons between what passes in a friendly nation and our own, and the next has not a single worthy word to resent an insult that fills us with anger and shame? How does it attempt to explain to us the latent contradiction which exists between the coldnes and the studied reserve of the government in its relations with Spain, which country has given us no occasion for offense, and the dissimulation or fear which obliges the same government to refrain from murmuring at the treatment of the United States? From this fear and this dissimulation does the suspicion not arise that from the two extremes of which we have spoken at the commencement of this article, viz: that of not lowering the dignity of the nation, and that of maintaining it, the government will act through the former? And let it not be said that the spirit of country or party blinds us; no. We well understand the difference there is between our power and that of the United States, and we well know that we should unite ourselves by ties of friendship and fraternity with our neighbor; but this does not mean that before the international conflict with which the Texan commission threatens us we should remain silent and dumb like the slave that goes down on his knees trembling on hearing the step of his master. And this is what the government, which says nothing in its paper for the satisfaction of the insulted national honor, intends to do.

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[Inclosure 2 in No. 407.—Translation.]

[From the Diario Oficial, Mexico, May 2, 1876.]

DIGNITY AND PATRIOTISM.

A representative of the United States has presented a proposition relating to the question whether Mexican territory can be violated, now that on the northern frontier of Tamaulipas the revolutionists have usurped the legitimate government recognized by that of the neighboring nation. If this idea, like others which we see daily in the North American press relating to our country, has wounded the patriotic epidermis of some, it has not affected the more tranquil national sentiment, but a sentiment no less commendable than that of certain individuals, whose violent attacks, on account of the motive which inspires them, we are far from censuring.

The press and public opinion, judging by their manifestations up to the present time, have not been prejudiced by that proposition. The Diario Oficial, following this example, thought that silence was the best reply to the personal view of the American representative, which view, without doubt, will not meet the approbation of the

elevated body to which it has been presented. Observing this course, the Diario Oficial thought that the rights of national dignity were better preserved.

If the latter should really be menaced, not by the presentation of a proposition, but by acts of another nature, then our contemporary the Siglo will see how the government of Mr. Lerdo, without arrogance or foolish provocations, will know how to sustain the name and honor of the nation, subjects concerning which it does not need to receive warning nor lessons from any one.

[Inclosure 3 in No. 407.—Translation.]

[From the Federalista, Mexico, May 3, 1876.]

THE STUDENTS OF THE PREPARATORY SCHOOL.—PATRIOTISM.

The students of this seat of education have presented to the government a request conceived in the following terms:

"In view of the possibility that a conflict may occur between Mexico and the United States, we, the undersigned, (students of the National Preparatory School,) publicly make known our desire that the minister of war may be pleased to appoint a person to instruct us in the manual of arms; since lovers, above everything else, of our country, and mindful of the constant threatening of the powerful neighbor republic, we earnestly ask that, while we are making ourselves men of education, we may be aided to become, in the case mentioned, worthy defenders of the country.

"We believe, without doubt, that the minister will accede to our just petition, since, entirely resolved, under such circumstances, to substitute our text-books for the gun of the soldier, he should by no means permit us to become, upon the field of battle, the victims of our ignorance. *Know in order to act;* this is a most wise and incontestable principle of modern philosophy.

"Jealous of the inviolability of the territory of our republic and disposed, as good sons of Mexico, to comply with a sacred duty, we earnestly desire an answer to our petition.

"Mexico, April 30, 1876."

[Sixty signatures follow.]

[Inclosure 4 in No. 407.—Translation.]

[From The Two Republics, Mexico, Wednesday, May 10, 1876.]

SEÑOR DON MATIAS ROMERO ON THE RELATIONS BETWEEN MEXICO AND THE UNITED STATES.

EDITOR-IN-CHIEF OF THE REVISTA UNIVERSAL, *Present:*

MY DEAR SIR AND ESTEEMED FRIEND: In number 97 of volume IX of your paper, of Thursday, the 27th instant, I have read an article entitled, "Mexico and the United States," in which, referring to certain resolutions presented to the House of Representatives of the United States by the special committee appointed to investigate the affairs on the frontier of Texas and Mexico, certain reflections are made which, although dictated by a very commendable spirit of patriotism, contain inexact impressions, and in consequence may produce results very different from those desired by Mexicans who are animated by patriotic sentiments.

I now propose to make certain rectifications of various ideas expressed in said article; but before doing so I think it will be proper to state that in writing these lines I am guided by a purely patriotic spirit, which I do not consider inferior to that of the author of the article.

The efforts which the national press are at present making in order to cause the nation to understand the condition of certain questions with the United States, and to prevent certain future dangers, are very commendable; and it is to be desired that it should persevere in that good way. But it is equally essential that in the reflections which it may make it should not incur serious errors, even if for no other reason than to distinguish it from the North American press, which in general, in its articles relating to Mexico, gives credit to the most lamentable mistakes and inaccuracies.

The present or future questions between Mexico and the United States are of such gravity that they should only be treated of or discussed with moderation and without passion, manifesting the reasons and the facts which favor our country, and endeavoring to incur no serious errors, neither to assent to false ideas.

At the present time, and without being acquainted with the state of these questions

in the department of foreign affairs, it seems to me that there is no immediate danger of a conflict, and for this belief I have two reasons chiefly: First, that although some few speculators desire war and talk of it, the great majority of the country is opposed to it. Second, that the present President of the United States, Ulysses S. Grant, was one of the most sincere and decided friends of Mexico in the United States under circumstances truly critical for our country. It is difficult to know what designs future administrations of the United States may entertain respecting Mexico, but I think it may be assured that while the present one continues, and while our government gives no just foundation for complaint to the United States, (as I think it has not given up to the present time, nor do I consider it probable that it will,) it does not appear to me probable that the relations between the two countries will reach a critical condition.

There are in the United States as in other nations, and perhaps in greater proportion than many others, a considerable number of restless persons who desire war, although it may be for no other reason than the benefits which war affords them, and who do what they can to provoke it; but I consider it a grave error to believe that these persons form the majority of the nation, and a greater error still that the present administration of that country is controlled by them.

The fact that, besides the article from the Revista which I have cited, others have appeared in the Federalista, the Monitor Republicano, and the Siglo XIX, in similar terms, all considering that there is imminent danger of a conflict between the two countries on account of the resolutions of the special committee on frontier affairs presented to the House of Representatives, has decided me to write the preceding considerations.

Giving my attention now in an especial manner to these resolutions, I think it proper to state that the member of the House of Representatives of the United States from the district of the State of Texas, which includes the principal sections bordering upon Mexico, presented a proposition asking that a special committee might be appointed to investigate the occurrences on the frontier, and to suggest a remedy. As is the custom in the American House of Representatives, the member who proposes the appointment of a special committee is made the chairman of it. The Representative from Texas was consequently appointed chairman of that committee; and he now appears presenting the resolutions which he considers proper for the attainment of his object.

Thus up to the present time these resolutions have not the character of propositions approved by the House of Representatives, nor still less by the Congress of the United States. From the circumspection of that body, it is to be hoped that it will not proceed in this case to trample upon the rights of Mexico.

It is well and good that the Mexican press should make known to the nation the text of these resolutions, and comment upon them in the terms which its patriotism inspires; but it is not proper, because it is not probable, that it should state as a certainty that these resolutions will be approved by the Congress at Washington.

In the article cited it is stated that the chairman of the special committee of the North American House of Representatives said to that body what a New York paper presents as a conversation of that Representative with a correspondent of the paper in Washington. It is understood at once that these views lose more of their gravity when expressed in a familiar conversation than if they had been uttered in the House of Representatives of the United States.

It is also said that Generals Sherman and Sheridan, of the Army of the United States, are in favor of these resolutions, and in this also there is inaccuracy. General Sherman, who occupies at the present time the high post of General-in-Chief of the Army of the United States, has expressed on different occasions ideas contrary to an unjust or oppressive policy toward Mexico. General Sheridan, who is also one of the highest officers of that Army, has never had any sympathy with filibustering enterprises against our country. It is consequently unjust to suppose both generals interested in favor of an unjust and aggressive policy.

Something more should be said of the insinuation which is made in reference to General Grant. If the present President of the United States should have desired to avail himself of unworthy means for assuring his re-election, perhaps the Cuban question would have afforded him a better opportunity and a more plausible pretext, and perhaps more popular in the United States, for carrying out his plan. If he has not availed himself of that opportunity, it is not probable that he will do it in respect to Mexico, in which there would be notorious injustice. The nation has no information up to the present time that the President of the United States has made any undue or unjust demand respecting Mexico. Excepting the crossing into Mexican territory of the American forces under Mackenzie, which does not appear to have been ordered by the Government of Washington, and the permission asked of Mexico in order that American troops might pass over to our territory, respecting which, nevertheless, our consent was asked, there is no information of any act that may be qualified as unfriendly on the part of the United States toward Mexico. On the other hand, it is now a fact that General Grant will not accept a second re-election, and that, in consequence, he cannot intrigue in favor of such re-election.

If it is remembered what has been the conduct of the North American Government in regard to questions of acquisition of territory since the close of the civil war in the neighboring nation, it will be seen that it has maintained the policy of not making new acquisitions of territory. The disapproval of the treaty in regard to the annexation of Santo Domingo is a decided fact bearing on this point. Something similar to this is taking place with the reciprocity treaty concluded with the King of the Sandwich Islands. This treaty has found great opposition in the House of Representatives at Washington, notwithstanding its having at the present time a democratic majority, because it contains a clause which gives to the United States the exclusive right of having certain establishments in the territory of those islands, which is objected to because it is considered as the preliminary step toward annexation.

The thinking people of the United States, who form the immense majority of the nation, are not in favor of the forced acquisition of more territory, and still less when the latter is peopled by a race like ours, so unlike that which inhabits the American territory. Without assuring anything, then, for the future in an absolute and definite manner, it does not seem to me that the danger is serious or imminent that the United States intend at the present time to make upon us a war of conquest.

From the patriotism and good sense of the Mexican press, it is to be hoped that in the mean time, while continuing to give its attention to the very important matter for Mexico of our relations with the United States, it will do so with corresponding moderation and circumspection, and without imitating in general the American papers, which, from failing to understand the situation of our country, make reflections destitute of all foundation and circulate gross inaccuracies and errors.

I am, your affectionate and attentive servant,

M. R.

MEXICO, *April* 30, 1876.

No. 215.

Mr. Foster to Mr. Fish.

No. 409.] LEGATION OF THE UNITED STATES,
Mexico, May 26, 1876. (Received June 14, 1876.

SIR: General Cortina, who has been a prisoner on parole in this city for some months past, has recently escaped and joined the revolutionists. In the present disturbed state of the country, it is to be feared that he may return to the Rio Grande frontier and again become a source of annoyance to the Texas border.

I inclose a copy and translation of his pronunciamiento, dated at a village within five miles of this city.

I am, &c.,

JOHN W. FOSTER.

[Inclosure.—Translation.]

CORTINA'S PRONUNCIAMIENTO.

GEN. JOHN N. CORTINA TO THE NATION.

FELLOW-CITIZENS: Ten months ago the despotic government of D. Sebastian Lerdo de Tejada tore me from my home, where I lived quietly at the side of my family, availing itself, for this purpose, of mean and miserable calumnies, which, desiring to give a varnish of legality to an act really unauthorized by law, the government itself put in circulation. Six months I was in prison in the capital of the republic, pending the investigations which were being instituted, and from which the government could not do less than desist, convinced of the fruitless result of its perverse machinations.

The trial being abandoned, I was taken out of prison, the minister of war ordering me to remain in the capital, where I spent three months more, subject to an excessive surveillance from the police, and with the restriction that I should not go even a league from the city.

This unjustifiable excess of arbitrary acts exercised against me had no other origin than the caprice of the government, which, knowing my integrity, understood that it could at no time rely upon me to make me its accomplice in the efforts for the re-elec-

tion to which it aspires with entire disregard of the unanimous will of the people, who reject it.

Now that I have succeeded in freeing myself from the clutches of the tyrant and in regaining my liberty, I earnestly protest before the nation against the outrages committed upon my person by the arbitrary government of Sebastian Lerdo de Tejada, and I assure you also that I will be, as ever, the defender of the guarantees which the constitution of '57 concedes to the people, and which the plan of Tuxtepec, proclaimed by the well-merited citizen Gen. Porfirio Diaz, seeks to make effective, which plan I accept and second in all its parts, and will defend at all cost.

I invite, in the name of the public liberties, all Mexicans who love their institutions, and who in other times have fought with me in defense of liberty, to rally around the flag which is unfurled by the well-merited General Porfirio Diaz, because it is the symbol of the constitution of '57, under whose shade alone can be given to the people of Mexico a truly republican government.

Viva la constitucion de '57! Viva el Cuidadano General Porfirio Diaz, su defensor
Free suffrage and the constitution.

AZCAPOTZALCO, *May* 18, 1876.

JUAN N. CORTINA.

No. 216.

Mr. Foster to Mr. Fish.

No. 411.] LEGATION OF THE UNITED STATES,
Mexico, May 27, 1876. (Received June 14.)

SIR: Within the past week the military operations have all resulted favorably for the government.

On the 19th instant an important engagement occurred between the insurgents and federal troops at Tepeapulco, in the State of Hidalgo, in which the former were defeated and one of their most active generals, Rodriguez Bocardo, was killed.

Under date of the 19th instant, General Escobedo telegraphed the minister of war that Matamoras had been abandoned by the forces of General Porfirio Diaz, and on the 20th instant General Fuero reported an engagement with Diaz and other insurgent chiefs, with a complete defeat of the latter. These engagements on the northern frontier satisfy the government that the threatened danger in that quarter has entirely disappeared.

On the 23d instant Cuernavaca, the capital of the State of Morelos, was attacked by a considerable force of revolutionists, and it was repulsed and driven to the mountains. The State of Vera Cruz, which was a short time ago, in greater part, in possession of the insurgents, is now mainly occupied by the government troops, including the capital, Jalapa. Railroad communication between this city and Vera Cruz has been restored.

These events have greatly encouraged the government and strengthened its adherents, who claim for it an early triumph over the revolution.

I am, &c.,

JOHN W. FOSTER.

No. 217.

Mr. Foster to Mr. Fish.

No. 416.] LEGATION OF THE UNITED STATES,
Mexico, June 22, 1876. (Received July 8.)

SIR: On the 28th of last month the government troops under the command of General Alatorre attacked the combined forces of the rev-

olutionists of Puebla and Oaxaca at Epatlan, in the former State, and after a severe contest drove them from the field; but the loss of General Alatorre's command was large, and his force was too insufficient to follow up with much effect the advantage gained. The revolutionists withdrew in good order. No important military events have occurred since that date; but in most of the minor engagements in different parts of the country the government has had the advantage. The revolutionists have assembled in considerable force in the States of Hidalgo and Tlaxcala, but have avoided all contests with the government troops, and at the latest advices are reported to have again scattered into small bands, it is supposed for the purpose of preventing the presidential elections in as many districts as possible.

This election occurs in the primary order on next Sunday, the 25th instant, when the electors are chosen; and these electors meet in their respective election districts on the second Sunday in July, the 9th proximo, to vote for President and certain other national officers. The revolutionists and the other opponents of the administration of Mr. Lerdo claim that no legitimate and impartial election can be held, owing to the disturbed condition of the country. The constitution requires the action of a majority of the electoral districts to constitute a valid election, and it is asserted that this cannot be had. It is insisted that a large part of the country is in the hands of the revolutionists, and that under their armed control no election can be held; and that in the States which have been declared under martial law by the President, under existing circumstances, there can be no free and legal election. It is admitted that the past practice under the constitution of 1857 has been to hold elections in States under martial law, as in the elections of 1857, 1861, 1867, and 1871; but it is insisted that the present condition of the States is anomalous; that in previous elections the States had been in rebellion by the act of the constitutional and regular authorities, the governors and other officers, or by a usurpation, as that of Miramon or Maximilian, in which cases it was necessary to govern the States by military authority until the civil authorities might be legally provided to exercise their constitutional functions; but that at the present time not a single governor has gone into rebellion; and that the President has taken advantage of disorders more or less unimportant to declare martial law, and to displace the governors by military commanders; and that elections in such States will be a mere registering of the will of the President through armed force, and a mockery of free election.

On the other hand, the adherents of the administration maintain that the constitution provides for holding the election at this time and in the manner contemplated; and that in no other way can the constitutional succession of the executive power be provided for. They assert that the main object of inaugurating the revolution was not with any hope of present success, but simply to so disturb the public peace as to make the holding of elections for President difficult or impossible; after which the revolutionists might have a pretext to charge Mr. Lerdo with usurpation and a violation of the constitution, and thus appeal to the country with a better prospect for the overthrow of the legitimate authorities. It is insisted that such a programme is utterly unwarranted, that it cannot receive the approval of good citizens, and ought not to be permitted to stand in the way of the constitutional order of elections. It is further maintained that the revolution has very limited proportions, and has only been able to disturb or overturn the peace in a small part of the republic; that the declaration of martial law in a State does not suspend the exercise of electoral rights by the citizens; and

that elections are entirely feasible, and will legitimately occur in many more than the bare majority of the districts.

No other candidate for the Presidency than Mr. Lerdo has been regularly presented for the popular suffrages, although the name of General Mejia, present minister of war, has been informally mentioned; and there is no doubt but that Mr. Lerdo will receive the majority of the votes cast. Should a majority of the electoral districts participate in the election, it will be declared constitutional; but it may happen even in that case that neither Mr. Lerdo nor any other candiate will receive a majority of the electoral votes of the republic; in which event the election of a President will devolve upon the House of Deputies of the National Congress, which is largely composed of the friends of Mr. Lerdo; so that it is reasonably certain that he will be declared elected to the Presidency for the next term.

His opponents claim that so far from his re-election having a tendency to pacify the country, it will only aggravate the situation, give new strength to the revolution, and eventually result in his overthrow and a revolutionary change of administration.

The government continues to be hard pressed, financially, to meet the increased expenses of the army. The best evidence of this fact is that it has been compelled to re-lease the mints of Guanajuato, Zacatecas, and San Luis Potosi to private parties in order to obtain $500,000. The control of the mints had been recovered by the government during Mr. Lerdo's administration, and this event had been announced as one of its greatest achievements. Nothing but the most pressing necessities of the treasury could have induced their re-lease to private companies. It is unfortunate for the mining interests of the country, for it insures for this term a continuation of the tax of 4.41 per cent. mint-charges, which it was hoped might have been removed or reduced when the government should come into control of all the mints of the republic.

Don Carlos de Bourbon, the pretender to the throne of Spain, has been passing a few weeks' visit in this city. He has generally been courteously received by all classes, but with special attention by certain persons and families of Spanish origin of the old conservative party and of the Catholic Church. The object of his visit has been announced as one purely of recreation.

General Antonio Lopez de Santa Anna, who returned to Mexico from his banishment in February, 1874, died in this city on yesterday morning. Since his return he has lived very quietly as a private citizen, and his remains were this morning followed to the cemetery by his personal friends, without any official or public demonstrations whatever.

I am, &c.,

JOHN W. FOSTER.

No. 218.

Mr. Foster to Mr. Fish.

No. 424.] LEGATION OF THE UNITED STATES,
Mexico, July 8, 1876. (Received July 31.)

SIR: I transmit herewith an article published in one of the newspapers of this city, written by Hon. Matias Romero, deputy in the Federal Congress, former minister of finance, and also of the Mexican legation in Washington, discussing the question of a reciprocity treaty

with the United States, especially in its relation to sugar production in Mexico. The press of this capital has noticed with considerable favor the propositions introduced into Congress and the discussion in the American papers on the subject of commercial reciprocity.

I am, &c.,

JOHN W. FOSTER.

[Inclosure.—Translation.]

From the Correo del Comercio, Mexico, Friday, July 7, 1876.]

EXPORTATION OF MEXICAN SUGAR.

I think that the articles which I have published up to the present in regard to the exportation of Mexican sugar demonstrate beyond all doubt that in the present state of this important product in foreign markets it would be impossible for us to export more sugar than that which may be placed in port at a cost which does not exceed four dollars per quintal. As a general rule, those plantations only which are on the coast or very close to the place of shipment will be able to place their products in port at that price, and the inevitable result will be that the exportation will be reduced to a very limited section of country; since, owing to the unpeopled condition of our coasts, the plantations established upon them, or those which may be established, are few; and the products of sugar plantations situated in the interior of the country, which latter are the more numerous, represent larger capital, and have capacity for a large production, cannot be exported.

Even introducing all the economy possible, I doubt much whether these plantations will succeed in placing their products in port at that cost; and in this case it is indispensable to look for other means of securing the exportation of our sugar. One of these might be the measure recommended by President Grant to the Congress of the United States, to establish differential duties in favor of the products of countries where slavery does not exist, which, for reasons which I stated in one of my preceding articles on this subject, would cause the price of our sugar to rise in the markets of New York. But this measure is tardy, and we have no means of influencing its adoption, for which reason we should not rely solely upon it.

There is another measure which, in my opinion, would be entirely efficacious in accomplishing this important object, and which I think it is in our power to realize. This measure consists in forming a treaty of reciprocity with the United States, by virtue of which Mexican sugar may be admitted free of duty in that country, we admitting in exchange, also free of duty, some equivalent product of North American industry.

This would be equivalent to conceding a premium in favor of our sugar equal to the value of the duties, which premium upon the poorest kind of sugar would be more than two dollars per quintal in American gold, and that would be sufficient to make the exportation profitable, which at the present is ruinous.

In order to proceed upon equitable bases, we should concede free of duty the importation of some product of North American industry, the one which at the present time produces for us a sum equivalent to that which our sugar imported by the neighboring nation would produce for the Treasury of the United States. This, in the latter case, would become a premium conceded by the Mexican treasury upon the exportation of Mexican sugar.

I judge the ratification of a treaty of reciprocity with the United States to be a matter easily accomplished, because, on the 30th of January, 1875, the Government of Washington formed one with the King of the Sandwich Islands, in which muscovado and unrefined sugars are specifically enumerated as among the products of those islands which are admitted free of duty in the United States. It is true that this treaty encountered some opposition in the House of Representatives of the United States; but, according to my information, this was due to the fact that it was believed, for reasons which it is not to the point to enumerate here, that a few speculators were the only ones who would profit by the treaty. Nevertheless the treaty, or rather the law necessary for its execution, was approved by the House of Representatives, although by a small majority. It is probable that the Senate, which ratified the treaty on the 18th of March, 1875, will approve the supplementary law necessary for its execution.

For several years the exportation of Mexican sugar to the United States would not be very great; consequently the loss which the North American Treasury would suffer on account of the exemption would also be small. When the good results of the traffic would be seen, it is probable that the production of sugar would be increased in order to take advantage of the profits which it would produce, and from that time it would assume greater proportions.

In 1859 the Government of the United States concluded a reciprocity treaty with the constitutional government of Mexico, which was then located in Vera Cruz, and although disapproved by the Senate of the United States, the latter was due to certain other stipulations and not to that referring to commercial reciprocity.

It is to be believed that Hon. John W. Foster, minister of the United States in Mexico, who has made a careful study of the means of increasing the commercial relations between the two countries, as is shown in his speech delivered in New Orleans on the 18th of November, 1875, is interested in this important question, and that he would be disposed to recommend to his Government an arrangement equally advantageous to both countries.

The Congress and the press of the United States are occupied at present with this important matter. General Gibson, member of Congress from Louisiana, presented to the House of Representatives the project of a law the ultimate object of which is the conclusion of a reciprocity treaty with Mexico. I have not been able to procure the text of this proposition; but, as I have been informed, it is proposed in it that the President of the United States name three commissioners and invite the President of Mexico to appoint three others, who jointly shall propose the basis of a reciprocity treaty. This project passed to the Committee on Commerce, and Mr. Reagan, to whom its disposal was encharged, has promised to present a favorable report.

Besides this, Mr. Lutrell, Representative from California, presented the project of another law in regard to the same subject, which should be considered as the complement of the proposition of General Gibson.

The matter was considered of such importance in the House of Representatives, at Washington, that notwithstanding the fact that the Committee on Commerce had presented a report contrary to the renewal of the treaty of commercial reciprocity with Canada, General Ward, Representative from New York, succeeded in fixing the attention of the House upon this subject.

* * * * * * *

I sincerely desire that persons of greater ability than myself should give their attention to this matter, which can do so much towards promoting the progress of our country and the development of its elements of wealth.

M. ROMERO.

MEXICO, *June* 30, 1876.

No. 219.

Mr. Foster to Mr. Fish.

No. 427.] LEGATION OF THE UNITED STATES,
Mexico, July 15, 1876. (Received July 31.)

SIR: The meetings of the electors chosen by popular vote on the 25th of last month were held on the 9th instant in the different electoral districts, as far as the disturbed condition of the country would allow. As anticipated, the large majority of the votes were cast for Don Sebastian Lerdo de Tejada for President of the republic, and from the returns thus far received it is inferred that a sufficient number of districts have participated to conform to the constitutional requirement of a majority vote to constitute a choice.

It is currently reported that the leader of the revolution, General Porfirio Diaz, who had been defeated on the Rio Grande by the forces of General Escobedo, having recrossed into the United States and taken passage in disguise on the steamer of the Alexander line at New Orleans, landed at Vera Cruz on the 27th ultimo, and joined the revolutionists in that State in safety; but up to the present date he has made no military movement indicating the truth of the report, or of his presence among his adherents.

An event which has attracted the public attention in a special manner has been the recent action of the federal supreme court in requiring the release from imprisonment of Albert Bianchi, one of the editors of the Monitor Republicano. About two months ago this gentleman was arrested by the governor of the federal district, under instructions from

the President in the exercise of his "extraordinary faculties," upon the charge that he had been guilty of inciting the public to insurrection, or at least to disturbance of the public order, in writing a dramatic play, and taking part in its performance in one of the theaters of this city.

The play was a bitter satire and attack upon the present government, and the effect of its representation was alleged to be to create disorder and encourage the rebellion. Mr. Bianchi was sentenced, without trial, to one year's imprisonment. The act was denounced by the opposition newspapers as a gross outrage upon the freedom of the press and a violation of all the personal guarantees of the constitution. An application was made to the supreme court for "amparo," a proceeding in the nature of a suit of *habeas corpus*, and the supreme court ordered his release. The governor obeyed the order of the supreme court so far as to take him from the prison where he was confined, but immediately upon passing from the door Mr. Bianchi was re-arrested and returned to the prison, it was stated, upon a new charge, and without trial sentenced to one month's imprisonment. The executive, in a communication addressed to the supreme court, through the department of the interior, (Gobernacion,) claimed that the arrest of Mr. Bianchi was entirely warranted by the "extraordinary faculties" granted by Congress, and that the last action of the executive had been acquiesced in by the supreme court in a similar case, citing the precedent. The supreme court, however, again ordered the release of the prisoner, and directed the federal judge of the district to proceed against the governor for contumacy. For a time it was feared there would be an open resistance by the executive to the court and a resulting armed conflict, but fortunately no such lamentable event occurred. The order of the supreme court was obeyed, and Mr. Bianchi placed in complete liberty. It is gratifying to note in this occurrence the progress in this country of respect for law and of recognition of constitutional guarantees.

Within the past few days the government forces have achieved a number of successes. A considerable band of revolutionists under General Donato Guerra has been defeated in the State of Jalisco; and the defeat and capture of Treviño, the chief of the pronunciados in Nuevo Leon is reported. On yesterday an engagement occurred near Cordova, resulting in the defeat and capture of General Fidencio Hernandez, the leader of the revolutionists of the State of Oaxaca.

I am, &c.,

JOHN W. FOSTER.

No. 220.

Mr. Richardson to Mr. Fish.

No. 441.] LEGATION OF THE UNITED STATES,
Mexico, August 26, 1876. (Received September 9.)

SIR: Since the date of Mr. Foster's last dispatch on current events, July 15, there has been very little occurring to attract public attention. With the exception of unimportant skirmishes here and there, in which the government troops have generally had the advantage, and the pronunciamiento of Governor Canales, of Tamaulipas, which occurred on the 25th of July, there has been a total suspension of active operations on both sides.

Diaz is at the present time in Oaxaca, where he is said to have about two thousand men ready for service as soon as the rainy season is over.

Whether he will take the field again before the meeting of the electoral college next month is doubtful. The friends of the revolution maintain that his policy is to remain quiet until Congress has counted the electoral votes and the result of the presidential election is officially declared.

Congress meets on the 16th of next month, and this matter will probably engage its earliest attention. As it is a well-known fact that the majority of this body are supporters of Mr. Lerdo, there can be no doubt that he will be declared re-elected.

The revolutionists understand this, but their hopes are turned in another direction. For a long time there has been a want of harmony between the executive and the supreme court. This conflict has been so severe on several occasions as to threaten a resort to arms. Claiming, as the opposition do, that the recent election was fraudulent, they are founding their hopes on the probability that it will be declared such by the supreme court. In this case they claim that the army will be turned over by Gen. Ignacio Mejia, the present minister of war, to the support of the court and the revolutionary party. General Mejia, as has been stated in previous dispatches, was one of the candidates before the country in the recent elections for President. He is a man who stands high with all parties, and has always been a supporter of the legitimate authorities of the government. It is presumed that his action either way will decide the fate of the administration.

I inclose an article from the Revolucion Economica, with a translation of the same, which gives an excellent idea of the state of the public mind in this capital at the present time. The Revolucion Economica, although an opposition paper, is one of the most fair-spoken and dignified journals in the city.

I am, &c.

D. S. RICHARDSON.

[Inclosure.—Translation.]

[From the Revolucion Economica, August 24, 1876.]

THE PRESIDENT OF THE SUPREME COURT, THE MINISTER OF WAR, AND THE RE-ELECTION.

The nearer the conclusion of the present presidential term approaches the more public attention is fixed on the elements, long since studied by us, and already well-defined, of the new situation. The supreme court and the minister of war are the two objects toward which all eyes are directed, as much by the partisans of the re-election as by those who sigh for a change in this distressing condition of the country. The former watch, fearful that the Nemesis of the Lerdist party may be announced in a severe decision of the supreme tribunal; the latter hope the true regeneration of the republic may spring from that decision, the adhesion to which will guarantee the support of the army, always faithful to the legal authorities.

We were, if our memory serves us, the first to define the attitude of the court and of the minister of war with respect to the re-election, and subsequent events have come to prove that our conjectures, authorized by the antecedents of the high functionaries to whom we referred, were correct. The Bianchi case demonstrated the disposition of the court, and the minister of war has declared, through the columns of the official organ of the government of the republic, that, being independent of parties, his acts will always be directed, as they have been directed up to the present, to the defense of constitutional order and the legal authorities, not only against armed revolution, but also against any political intrigue whatever calculated to alter the former or overthrow the latter.

Can we ask, can we desire facts more efficacious against any doubts that might be entertained in this respect? Neither the supreme court nor General Mejia has said that opposition will be made to the re-election; nor have they said that they will support it; what both have said in the most explicit and conclusive manner is, that, in obedience to the law, they are under no obligations neither for nor against the said re-election; consequently, being independent of all political interests, they will support

the re-election if it be effected under legal conditions; or they will oppose it if in its consummation the liberty of suffrage conceded by law be violated; in a word, the supreme court and the minister of war, throwing aside all personal feelings and political interests, will sustain legal order, the legally constituted authorities. In the antecedents of the court and the minister of war may be seen a constant and deliberate effort directed to an identical end, the preservation of legitimate authority. The constitutional theory that the court has constantly sustained with regard to the faculty of judging, incidentally, the competency of the origin of the authorities and the noble conduct of General Mejia on the death of President Juarez, which he has continued to observe up to the present time, sustaining with loyal energy the man who was at one time his political adversary, are acts which, proving the observation made in the beginning of this paragraph, do not permit a doubt as to the attitude that may be taken after the re-election by the President of the court and the present minister of war. To think, to doubt even, that one or the other would oppose the re-election if it is legally effected, or that it would be sustained, if illegal, would be to gratuitously offend reputations that, in our eyes, appear without stain.

Is it really the conscientious opinion of the public that the election has been a farce? Hence it cannot be doubted that, when the proofs of the fact are given, the situation that has been announced to ensue after the 30th of November will shape itself in the manner that has been foreseen and with the elements that have been observed.

There will be no lack of papers to say that our conjectures are unauthorized, basing their statements on the fact that we did not consult the views of Mr. Iglesias and Mr. Mejia before saying what we believe with reference to their future conduct. The objection would have some weight if, instead of referring to citizens who like them are well known as men consistent with principles which all the world know they profess, it should refer to political shysters, capable of professing all theories and all political and social opinions as the latter become conformable to selfish party views or petty personal interests. When men of principles, men who do not mold their convictions to suit circumstances, are discussed, it is sufficient to bear in mind the antecedents of their convictions in order to know, more or less, the manner in which it is logically probable they will conduct themselves under determined circumstances. Thus, it is enough for us to know that Messrs. Iglesias and Mejia have been, in principle, decided supporters of constitutional legality, in order to be able to assert, as though they themselves had informed us, that they will sustain legal authority, even if it be represented by Mr. Lerdo, and that they will oppose usurpation, although it should elevate to the highest post the same citizen.

If the president of the supreme court and the minister of war were, as Mr. Sanchez Mármal would say, a pair of political weather-cocks, we would feel doubtful, in truth, as to their future conduct; being, as they are, men of principles and honorable antecedents, to doubt the rectitude of their future acts would be to inflict upon them a gratuitous offense.

Our conjectures are, then, authorized, perfectly authorized, by the past career of the two citizens to whom we have referred, and it can, consequently, be affirmed, that if it should be demonstrated that re-election is aimed at without deference to the will of the country, both the president of the supreme court and the minister of war, within the sphere of their obligations and rights as functionaries and citizens, will oppose it in defense of the institutions and constitutional order.

Nobody—absolutely nobody—can contradict us on this point, unless by doing a gratuitous injury to the functionaries of whom we have spoken. Thus, then, the affirmations of the Diario against what has been remarked by Mr. Emilio Velasco with respect to the minister of war, far from destroying what has been said by that writer, confirm his observations upon the basis of a declaration almost official. The minister of war would oppose, with all the elements at his disposition, any armed revolution and any intrigue against the legal authorities; he will defend, in every case, constitutional order. Then, if it should result that the re-election is a fraud, if it should turn out that it is an intrigue against legality, the minister of war will oppose it, at the proper time, with the elements at his disposal.

It is not, then, possible to entertain a doubt as to what will happen with reference to Messrs. Iglesias and Mejia after the 30th of November. What power, what decisive influence, can the Lerdist faction oppose to the great political and social elements that would rally around the banner of legality, if this legality should not be represented by Mr. Lerdo?

The Lerdist faction, as a party, has no organization, no programme that would gain for it the support of social interests; its programme would be the policy it has followed till now, and that policy has given no results other than corruption, poverty, and the most profound wretchedness among all classes of society. Politically, we have had nothing but misgovernment; economically, ruinous monopolies. We have no credit; we have no finance; and the country, being disorganized, needs a strong government—strong not only with bayonets, but with credit, through its resources, through the integrity of its material and moral power. We need work, and we cannot obtain it so

long as the government does not give absolute guarantees for the investment of capital lying idle here, and induce in that manner the return of that which, on account of insecurity, has been sent abroad. We need easy and cheap means of communication, and consequently, money at a low rate; and illy can this be secured when, instead of procuring an influx of capital, an erroneous, heedless policy obliges it to flee the country. We need to regenerate ourselves by labor, which is the main-spring of all the forces of civilization, and this is not possible—absolutely impossible—when elements of wretchedness are systematically preserved for the simple reason that they are favorable to a policy, and the germs of well-being are pursued and annihilated if they do not assist to satisfy the exigencies of the same policy.

This is erroneous, absurd; nevertheless, such is the programme with which the herdist faction has presented itself to defend its candidate. We have had four years of profound errors and continual blunders, and it is proposed to give us four more of the same regimen, or, better said, of equal disorder. Is this possible? Is it possible that after the results the herdist policy has had, that after this fiasco in the contemplated work of reconstruction which we were promised, that herdist faction still presents itself as a political party with a title to influence and power in the public administration? We do not doubt, we cannot doubt, we are not permitted to doubt, the good faith, the patriotism, of the greater part of the men who compose that faction, but we do believe that the latter, as a political party, no longer exists; in the first place, because its own chief destroyed it; in the second, because the platform, the programme, it might now present, has been what is called a fiasco—the most complete as well as the most lamentable of fiascos.

There is not, then, a party, good or bad, that will sustain the re-election in case this should not be legitimate; consequently it may be presumed, with all the elements of truth with which it is possible to judge under the circumstances, that under the said supposition, after the 30th of November the so-long-desired union of the liberal party may be expected against the small group that sustains the re-election. It is unnecessary to inquire on whose side will be the probabilities of triumph in the indicated hypothesis. The re-election party in such a case would be even more feeble than the reactionary party after the victory of Calpulalpam, or the monarchical party after the capture of Queretaro.

No. 221.

Mr. Richardson to Mr. Fish.

No. 442.] LEGATION OF THE UNITED STATES,
Mexico, September 7, 1876. (Received September 28.)

SIR: On the 31st ultimo the President of this republic removed several members of his cabinet and made the following new appointments: Manuel Romero Rubio, minister of foreign affairs; Mariano Escobedo, minister of war and marine; Juan José Baz, minister of the interior; and Antonio Tagle, minister of public works. I inclose herewith a translation of the official notification which I received of these changes, and also a clipping from the Two Republics of the 6th instant, giving a personal sketch of the new appointees.

This action of the President has thrown the community into a high state of excitement. The oppositionists, particularly, are disgusted, and their organs have been filled for the past few days with inflammatory and threatening articles. The removal of General Ignacio Mejia from the war department weakens the expectations of the revolutionists of carrying the army with them after the 30th of next November, and renders necessary new tactics and combinations.

Among the friends of the administration the measure is considered a wise one; but that it is bold and somewhat risky they do not pretend to deny.

Public feeling at present is one of suppressed excitement, both parties waiting anxiously for the crisis which is approaching. The President's term expires on the 30th of next November, and if in the mean time he

is declared legally elected and attempts to enter upon his new term of office, it is believed the revolution will break out again with more fury than ever. That Mr. Lerdo will be declared legally elected there is no doubt, and the main efforts of the revolutionists are now directed toward collecting evidence which will prove to the people the illegality of the elections in spite of the declarations of the electoral college.

I am, &c.,

D. S. RICHARDSON.

[Inclosure 1 in No. 442.]

Mr. Arias to Mr. Richardson.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, August 31, 1876.

SIR: The President of the republic has considered it proper to appoint Mr. Manuel Romero Rubio, minister of foreign affairs; the general of division, Mariano Escobedo, minister of war and marine; Mr. Juan José Baz, minister of the interior; and Mr. Antonio Tagle, minister of public works, which gentlemen have to-day entered upon the exercise of their duties. In communicating these facts to your honor for your information, I have the honor to reiterate to you the assurances of my distinguished consideration.

JUAN DE D. ARIAS.

[Inclosure 2 in No. 442.]

[From the Two Republics, Mexico, Wednesday, September 6, 1876.]

THE NEW MINISTERS.

Minister of foreign relations.—Sr. D. Manuel Romero Rubio is a gentleman of fine talents and of considerable political experience. He has served many years in Congress, and was always an able leader. At the time of his appointment in the cabinet he was president of the senate. His talents and business abilities qualify him for an efficient minister of the department under his charge. Where he will lack experience in the routine, he will find able co-operation in the experience and diplomatical erudition of Sr. D. Juan D. Arias, the worthy and experienced official mayor of that department.

Minister of war.—General Mariano Escobedo is a skillful and experienced officer. Rendered valuable services previous to, and became distinguished during the war of the intervention; and is justly called "the vanquisher of Maximilian." During the attempted revolutions against President Juarez, and the one which is now on its wane, he was an active pacificator of the interior and in the north; he handled the few troops which were at his command, over a large extent of country, with great skill and success; and proved himself to be an excellent organizer under the most depressed circumstances of limited materials and resources. He is undoubtedly well qualified for the important position to which he has been called.

Minister of the treasury.—Sr. D. Francisco Mejia has served several years in the treasury department, and has contributed to the thorough re-organization of the custom-house, producing an efficiency, promptness, and honesty in the discharge of the business of those establishments—a reformation which was greatly needed, and a work which Mr. Romero, his able predecessor, had inaugurated. He was an original Juarista, and was first appointed to the treasury department by President Juarez. Sr. Mejia has proved himself to be an able financier and custodian of the treasury, and has earned a high reputation as a minister of finance.

Minister of the interior.—Sr. D. Juan José Baz has been a prominent politician for many years, and adhered to Juarez until the death of that distinguished patriot; but has given a warm support to President Lerdo, from his advent to the executive chair. He entered the capital with the advance of the republican army, after the downfall of Maximilian, with a commission from President Juarez, as governor of the federal district, which post he filled with great ability, and at a time when a firm and active governor was greatly needed. Sr. Baz is a man of great activity and firmness, and is well suited to the ministry which he fills. He was a member of Congress many years.

Minister of public works.—Sr. D. Antonio Tagle has been governor of the State of Hidalgo, and was at the time of his appointment a member of the senate from that State. He is considerable of a politician and an influential leader in the upper house. As governor, he was active, vigilant, the protector of industry, and inaugurator of numerous enterprises.

Hidalgo is the most important field of mining, and Sr. Tagle is fully alive to its importance, is familiar with the requirements of that branch of industry; and as this is one of the most important departments of this ministry, he is peculiarly fitted for the position.

Upon the whole, the new cabinet is excellent, and the country has much to hope from their co-operation with President Lerdo.

CHANGE OF MINISTRY.

On the 31st ultimo the cabinet was re-organized as follows: Foreign relations, Mr. Manuel Romero Rubio; war, General Mariano Escobedo; interior, Mr. Juan José Baz; public works, Mr. Antonio Tagle; treasury, Mr. Francisco Mejia, (continued;) justice and public instruction, (vacant,) in charge of Mr. Diaz Covarrubias, the official mayor.

No. 222.

Mr. Richardson to Mr. Fish.

No. 446.] LEGATION OF THE UNITED STATES,
Mexico, September 18, 1876. (Received Sept. 30.)

SIR: The third session of the eighth Mexican Congress opened on the 16th instant with the customary ceremonies. I transmit herewith a copy of President Lerdo's address on that occasion with a translation of the same.

Contrary to general expectation, the 16th, which is the anniversary of Mexican independence, passed off without any disturbance; the new cabinet officers have quietly entered upon the discharge of their duties, and everything is peaceful about the capital.

I am, &c.,

D. S. RICHARDSON.

[Inclosure.—Translation.]

President Lerdo's address on the opening of Congress, September 16, 1876.

[From the "Two Republics."]

CITIZEN DEPUTIES AND SENATORS: In compliance with a constitutional precept to-day, the anniversary of our independence, you inaugurate the third term of your ordinary sessions.

This event, which under all circumstances has a special significance, is at present of greater importance, because it reveals the power of our institutions over armed rebellion, strengthening the conviction that the nation will know how to surmount all obstacles that may be opposed to her progress and well-being, without doubts for the present and without fears for the future.

Our relations with the friendly foreign powers have continued in the greatest harmony, it being a source of satisfaction that they are maintained and each day strengthened, cultivated as they are in a spirit of justice and cordial good-will.

On the termination in January of this year of the labors of the mixed commission, created in Washington by the convention of the 4th of July, 1868, numerous claims remained pending, which, on account of the disagreement of the commissioners, were remitted to the arbiter for his decision. As the stipulated time for the latter was relatively short, it was indispensable to agree to a prolongation, which was adjusted in April and will terminate next November.

Although as yet it is impossible to know the full result of the decisions of the com-

mission and the arbiter, it can be stated that of the enormous sum of $550,000,000 claimed of Mexico, the hundredth part will not be recognized.

It is pleasing to be able to manifest to Congress that our modest representation in the Exposition of Philadelphia has been duly appreciated, surpassing what might have been expected owing to the difficulties of our situation. If Mexico has not sent to the Exposition all that we might have desired, nor that which under ordinary circumstances could have been sent, at least there have been presented in it a few of the evidences of our social advancement, of our industry, and of our valuable natural products, thus stimulating the greater development of our export commerce, of our agriculture, and of our national industry.

The inability to state on this important occasion, as in former epochs, that peace is assured throughout the whole extent of the republic is to be regretted. Nevertheless, some consolation for so great a calamity is found in being able to inform Congress that all guarantees have been respected, that the most absolute liberty has existed in every sense without limit, and that the repressive laws, notwithstanding the dangers of the situation, have not been practically applied, except in very rare cases and with full justice.

The disastrous consequences of civil war, so sad for society, the forces of which are completely enervated, and so injurious to the public administration, whose elements and resources, at all times insufficient, are diminished in a great measure by the disturbance of order at the same time that its necessities are multiplied, are to be deplored.

The financial question has at all times been one of those which has most seriously occupied the attention of the administration. Although it was far from being resolved in former years, by a series of administrative measures and with the aid of Congress, a positive advance leading to the important object of regulating the expenses of the administration, equalizing the receipts and disbursements, had been secured.

These hopes have been postponed by the rebellion, as has been the accomplishment of many internal improvements. Nevertheless, the efforts of the executive to preserve some works of public utility, and to continue as far as possible others, are well known. The telegraph-lines that extend over the territory of the republic, and which are as useful for the administrative service as necessary to commerce and all social relations, have been under constant repair in some places, and completely replaced in others.

During the times of trial for the Mexican nation is when the qualities of her sons are elevated. Acknowledgment is due to the valor, discipline, and civic virtues of the army, that with abnegation and patriotism, struggling with discomforts of the season, and at times without the necessary elements, has loyally complied with its duty, holding high the banner of our republican institutions, and making a true religion of the respect which all of us owe to the law. It has been seconded in this noble task by the corps of the rural police, with a constancy, activity, and valor indeed laudable.

Our revenue-cutters, although insufficient on account of their limited number, have commenced to render efficient service. Small, indeed, is the sum invested in them, considering the frequent and serious damages that revolts usually cause in some of our ports, and which those vessels have contributed to prevent; having been also employed in the transportation of troops and elements of war, as well as in several military operations, which, by their co-operation, have been crowned with success.

The present rebellion is the same that has been combated and conquered in former years. The foreign intervention having been defeated and the republic restored, our institutions remained assured, with all the principles established with them. Since then the cause of the disturbers has been simply that of satisfying personal ambitions; at times without mask, and at others disguised in the garments of the constitution, they have been for eight years trying to destroy it, breaking every social tie, trampling upon all legitimate interests, and perpetrating offenses that can never be justified in the eyes of the civilized world, not even by the necessities of the time.

Fortunately the nation, that loves the institutions she has created, and that relies on them to assure her future, will know how to preserve them without a stain. The present rebellion has been successfully combated—it being impossible to doubt its termination—by the general good disposition of the people, who condemn it. The executive being guided by these sentiments, and relying on the co-operation of all good Mexicans, will continue to make every effort to insure a solid and permanent peace.

It is very satisfactory that you again unite, citizen deputies and senators, for the purpose of resolving upon, with your patriotic zeal and enlightened legislation, whatever may be necessary for the welfare and prosperity of the republic.

PERU.

No. 223.

Mr. Gibbs to Mr. Fish.

No. 36.] LEGATION OF THE UNITED STATES,
Lima, Peru, October 20, 1875. (Received November 13.)

SIR: I have the honor to inform you that the election for President of the republic commenced on Sunday, the 17th, and by law supposed to continue for eight days, is virtually over, General Mariano Ignacio Prado being the successful candidate. It is difficult to understand the politics of the country, except by a long residence; there does not appear to be any particular principles at stake, nor, as in our country, party platforms, but merely personal ambition. The two candidates were General Mariano Ignacio Prado, who had filled the presidential chair previously, during the years 1866–'67, being placed in power by a revolution in December, 1865, and ousted by another in January, 1868, and Rear-Admiral Lizordo Montero. Mr. Prado is supposed to have been sustained by the party in power to-day, Rear-Admiral Lizardo Montero being the candidate of the opposition. From what I could observe during my short residence here since my arrival, I should judge that the adherents of Prado were more numerous in the higher classes, and composed of the more respectable part of the population.

To an American citizen, the elections are apparently decided more by force than by suffrage. The tables or polling-booths are placed in open spaces, or squares, one in each parish, and the party who takes the booth and holds it is the successful one. It was well-known that both parties had been arming for some time past; conflicts had been numerous and frequent between the clubs of the rival candidates, causing bloodshed and death. As the day of the taking of the booths approached, fears were entertained of a bloody strife, and great alarm existed among all classes.

On the afternoon of the 16th all stores were closed, and the streets nearly deserted; the various clubs were formed, armed, and placed in buildings near the polling-tables, to begin the strife during the night, so as to have them by daylight. About midnight, firing could be heard in various parts of the city, which lasted until about 6 in the morning, except in the parish of Santa Ana, where the contest was held out until about 10 a. m.; the adherents of Prado had taken all the polling-tables, and by this act he was declared the successful candidate. By telegrams from various parts of the republic, up to this date, it appears that the same result was attained in the great majority of provinces heard from. In Lima the number of deaths officially given is 25, and wounded some 60 or more. The military and police arrangements of the government to preserve order were most admirably carried out; if they had not, I think the loss of life would have been immense, and the strife would have lasted many days. All establishments, banks, hotels, and stores were closed; great parts of the inhabitants were in their houses, with closed doors; and the city had the appearance of a place afflicted and abandoned during two days, the 17th and 18th. Yesterday all was going on as usual. No attacks on persons or property have taken place; the bloodshed was only between the political clubs of either candidate.

I have, &c.,

RICHARD GIBBS.

No. 224.

Mr. Gibbs to Mr. Fish.

No. 50.] LEGATION OF THE UNITED STATES,
Lima, Peru, January 13, 1876. (Received February 10.)

SIR: In my dispatch No. 36, October 30 last, I gave the information of the election of General M. I. Prado as President of the republic for a term of four years, commencing in July next.

Politically the country has been apparently quiet, excepting rumors of revolutions in the south; in connection with these is mentioned the name of Nicolas Pierola, who headed a movement in 1874, an account of which was sent to the State Department by my predecessor, the Honorable Mr. Thomas, in his dispatches No. 137, October 13; No. 140, November 27; No. 145, December 13, 1874, and No. 148, January 5, 1875. Pierola escaped on that occasion from Arequipa, the headquarters of the revolutionists, to Bolivia, and from there went afterward to Chili, where he has resided since. I have heard many rumors about Pierola being in Peru, also of his having purchased one or two steamers to land arms and ammunition in this country. I have sought information from various sources and will give my ideas, having the advantage of being thoroughly conversant with the language of the country, and meeting socially all classes, official, commercial, and proprietary.

The present administration is called "civil" in contrast to what is titled the "military" party. It has done all possible to reduce the army to a small scale, placing a great number of officers on the retired-list, or what are called "indefinites;" it is supposed also to be liberal in religious views; the party President and Congress elected to power next July are supposed to be of the same views.

The financial affairs of the nation are in a very poor condition, with very little or no prospects of improving; the great wealth of the country, the guano-deposits, were disposed of by President Balto, the predecessor of the present head of the nation, in commencing an immense system of government railroads, nine in all, with over 1,281 miles in length, at an estimated cost of 128,354,000 soles, not finished or productive, most of them being suspended.

Pierola is said to be an agent or a partisan of the ultramontane party, being supplied with funds by them; it is also said publicly that he has received large sums of money lately at Valparaiso, sent to him from this country. As there is a large number on the retired-list, they are discontented, and desire active services; a great number of office-holders with reduced pay or delayed payments; others who have been discharged swell the numbers of discontents, and plots of a revolutionary character against the government are continually working. Still, I have reason to believe that the government has a knowledge of every movement, and is prepared to check any that may be attempted.

The Comercio, government paper, in its evening edition of the 10th instant, states that they had received telegraphic news of a revolutionary movement which had taken place in Puno by a rising of gendarmery infantry, or a species of national police; that the prefect, at the head of the civil guards or municipal police, had put it down after a conflict in which two were killed and eight wounded—among the latter the lieutenant-colonel of the gendarmes. When the above news reached Arequipa a slight movement was started there also, and at the last accounts great excitement existed. Puno, Cuzco, and Arequipa are in the south of the republic, and are supposed to be in favor of Pierola, the

church party having great influence in the three cities mentioned and their provinces.

The Comercio, in its edition of the afternoon of the 11th, has an article on the above, and I find that it coincides with the idea expressed by me as to the causes for a revolution, and concludes by acknowledging that the situation in the south is very critical and dangerous for the peace and prosperity of the republic.

I am, &c.,

RICHARD GIBBS.

No. 225.

Mr. Gibbs to Mr. Fish.

No. 63.] LEGATION OF THE UNITED STATES,
Lima, Peru, March 13, 1876. (Received April 5.)

SIR: As sugar is an article that has become a necessity, and the United States being one of the greatest consumers among the family of nations, and the supply from Cuba, the great producer, being more precarious each year through the effects of the revolution of the Cubans, I have devoted some time and attention in acquiring information of this very important branch of agricultural industry, having great difficulty from want of statistical data.

It may be said that it is comparatively new on this coast, particularly in this republic. I find that in the year 1859 exports of sugars of all kinds amounted in value only to $80,000. Last year (1875) the exports from Peru were 60,000 tons, of which 20,485 tons were exported direct to England by steamers through Magellan Straits. Sugar is raised on this coast from Lambayeque to Tambo, (6° 30′ 17° south latitude,) or a line of over 700 miles. All the valleys that lead up through spurs of the Andes are very rich. Some of them are of great width. Also, large areas are cultivated on the lower slopes between the cordilleras and the sea. As it does not rain, the cane-fields are watered by an immense system of irrigation, a great part through the old lines of the Incas. Cane takes about two years to be ripe for cutting. By cutting and planting, it may be said that the mills could grind all the year. They make sugar about eight months in the year. The rest of the time is occupied in tilling the ground and cleaning out the "acequias" or irrigating-ditches. I have visited a number of the plantations, and find that the cane produces more and richer saccharine matter than the cane of Cuba, and, from conversation had with persons who have been employed in Louisiana and Cuba, I learn that the sugar-cane here has many advantages over those places. Having resided many years in Cuba, I have some knowledge of cane and manufacture. I have visited in the north of Peru, at Chimbote and Pacasmayo, two of the largest sugar-mills and sugar-making apparatus supposed to be in the world. These plantations cost nearly 2,500,000 soles. Nearly 1,000 workmen or laborers on each. Nothing like them in Cuba. The machinery is a splendid specimen of American industry, from Philadelphia. It has lately been put up, and can grind and turn into, centrifugal sugar of first class, 500 quintals in twelve hours, or 25 tons, of sugar from the cane, ready for shipment. The greatest difficulty about cane-culture is want of hands. The natives of the sierras or Andes cannot work down on the lowlands of the coast. News has lately been received that

contracts have been made by Peruvian commissioners in China with the house of Olyphant & Co. to be supplied with Chinese laborers.

In connection with this, I inclose an article from the leading journal of Lima, *El Nacional*, which has excited quite a discussion from the rest of the press of this city.

Within the last year quite a demand for Peruvian sugar has sprung up in the Argentine Republic, and it appears to be increasing.

I have, &c.,

RICHARD GIBBS.

[Inclosure.—Translation.]

[Extract from El Nacional, Lima, February 11, 1876.]

ASIATIC COLONY.

A few days ago one of the newspapers of this capital announced that, according to notice received from Hong-Kong, the Asiatic immigration was on the eve of being re-established under convenient and legal basis. This asseveration was confirmed by a telegram of our chargé d'affaires to China, through which notice is given that the treaty with that empire has been exchanged, and the preliminary arrangements were concluded with the house of Olyphant & Co. for the Chinese immigration to Peru, which could commence immediately.

Two daily newspapers have received this news with marked demonstration of great rejoicing. To their ideas, doubtless, the great interest of industry has been saved, threatened, as they were, by a tremendous crisis for the want of hands for labor.

It causes us profound sorrow that such an important and transcendental question, which, from a mere operation of industry, has become converted into a social one, is treated and judged as lightly, more so after the acquired experience of so many years in which Asiatic immigration was established and encouraged.

There are no hands for labor! This is the favorite theme, the supreme cause, the definitive judgment against those who raise their voice in relief of humanity, of our free institutions, and for the improvement of our race, to stop the contagion of impure customs, immoral habits, and cruelties repugnant to civilization and our political ideas.

It is proved that with very rare exceptions the Asiatic colonists work but under the influence of constant menace and punishment more or less severe. It is necessary to intimidate them, and the means employed to obtain that result have taken the proportions of the most scandalous abuses, in many instances the authorities being obliged to intervene, in order to make effective the guarantees which our laws offer to all who live on Peruvian soil.

Since Asiatic immigration was established in our ports, slavery, although abolished in name, was re-established *de facto*. The similar absolute dominion was established over the new colonist as that formerly exercised over the negroes; they were chastised with the same cruelty, and traded in without consulting them in the least. And all this was done under the name of protection to industry! Why have we then praised abolition, when it was known that we gave a mortal blow to Peruvian industry? Was it for the pleasure to give it a new shape?

Why do we consider an offense to humanity that in some of the Antilles slavery is still continued, when it is evident that there it is the principal support of industry?

Is this by chance the result offered by those who have charge to procure immigration? Is this the solution that was to be given to the question proposed to them? This signifies to re-establish the system of Asiatic colonization—a system that cannot be implanted or methodized without wounding deeply the laws of our political organization, debasing and depreciating the inviolable rights of human dignity.

There is yet more: If the object was to introduce Asiatic colonists for agricultural industry only, the official protection offered to this class of immigration could be tolerated. Can the Chinese who contracts himself on his arrival at Peru, or is free at the term of his compromise, according to our laws, dedicate himself to any licit industry? We would oppose it. He would dedicate himself to those industries in which, with less rigorous and absorbent work, could earn as much or more than what he earns by cultivating plantations.

The same reason will increase the depths of filthiness and bad habits paraded this present day in some of the principal streets of this city, insulting public morality.

The Asiatic race, who, for the singularity of its institutions and personal instinct, advanced very little or nothing in more than a thousand years, have a civilization different and contrary to ours.

Then, instead of being enriched with the contact of coolies, we shall gradually but surely be impoverished. It is not, under any circumstance, the desired element for colonization.

It is true that the Asiatics are intelligent, and have few necessities. Under this view they would be strong competitors to our working class, and for which reason they could work cheap, their sustenance costing them but little.

In exchange the Chinese gamble is vicious and voluptuous. To restrain the contagion of those evils, the introduction of Chinese women would be necessary, should they not come themselves, and in such case the seriousness of the evil would be greater in another view. The sad experience California has had on this subject has been the origin of serious investigations, of protests, and the repugnance of the North American people.

Why then that anxiety to augment every day, in alarming proportions, the current of Asiatic immigration? Why this rejoicing when it is known that it will again be re-established? Do the new colonists bring us a better civilization than ours? Do they bring purer customs, moral habits or political doctrines better than ours? Do they even bring the energy of a virile race, generous and elevated sentiments? No, by no means; under all those views, they bring degeneration and nothing else.

Against the interests of civilization, morality, habits, physical and moral improvement of the country, those of agriculturists is preferred.

That which is wanted is a laborer who works from sunrise to sunset; who can live on two rations of rice; who earns one sol a week, which in the majority of the cases is discounted from him for real or supposed damages occasioned by him; and who can drag chains, be flogged, and cruelly persecuted when he leaves the house of his master. This is what is wanted. Under those conditions it will certainly be impossible to obtain day-laborers in this country. Let them be contracted under reasonable conditions, encourage labor by other means than cruelty, and let those large and unproductive capitals now employed in the construction of sumptuous palaces be applied to better the condition of laborers; then better colonists, real workmen, will be obtained, instead of instruments subject to the caprice of their masters.

In the supposition that an extreme and imperious necessity would oblige us for a longer period of time to favor Asiatic immigration, we ought to accept it as a necessary evil, submitting instead of consenting to it; but never hail it with rejoicing, when by so doing it is to the grave detriment of other interests of greater importance.

The four-fifths of mendicants who roam through the streets of Lima are Asiatics, who were rendered incapable to work through the rigor used against them in plantations. At first producers, they are now reduced to the state of simple consumers.

Can labor and industry be bettered under such conditions?

No. 226.

Mr. Gibbs to Mr. Fish.

No. 67.] NEW YORK, *April* 29, 1876. (Received May 1.)

SIR: In reading over the diplomatic and consular appropriation bill, as passed by the House of Representatives, I see that the United States of Colombia, Ecuador, and Peru are to be consolidated in one mission or post. I would most respectfully state that facilities of travel are not so great or convenient as in the United States, either by land or water.

I will give an idea by describing a trip from New York to the capitals of the above-named republics, Bogota, Quito, and Lima. To visit these three cities, as I suppose the minister would have to present himself to each, would be very costly and take up a great deal of time.

From New York to Colon, eight or nine days; there he would have to await a steamer for Sabanilla from one to fifteen days; from Colon to Sabanilla, two days; from Sabanilla to Baranquilla by railroad; thence up the Magdelena River by a steamboat, which runs only during daylight, tying up at night, about five days to Honda; at Honda horses or mules up to Bogota, four days; stop at Bogota ten days; from Bogota to Quito—there are two ways, one is across the Andes by mule-back, thirty days; the other, back to Sabanilla across the Isthmus and

down the Pacific. By the first way very few persons, except young men who are very hardy and rugged, could stand the fatigue and exposure to the high altitudes, so the safest way would be back to Colon, having there to take a chance of a steamer, once or twice a month, to said port. After arriving at Panama from Colon, there are steamers that touch twice a month at Guayaquil, Ecuador, so the minister may have to wait some time in Panama for conveyance. From Panama to Guayaquil, two days; from Guayaquil to Quito, six days by mule or horse; after being there the necessary time, returning to Guayaquil and taking chances of some steamer stopping on its way down to Callao, four days; and then go to Lima, eight miles distant.

By allowing ten days each in Quito and Bogota, and an average time of seven days waiting at Colon, Panama, and Guayaquil for steamers, also for good traveling and regular connections by steamer, it would take eighty-four days from New York to Lima, after visiting Bogota, capital of the United States of Colombia, and Quito, the capital of Ecuador.

Traveling expenses are very high, and it would be a necessity for the minister to have a secretary with him, and, if unacquainted with the language, an interpreter.

All traveling by the routes mentioned from Colon to Quito exposes persons from northern climes to great danger from sickness. Once settled in Bogota or Quito not so much fear, although it takes a healthy, strong person to live at Quito, on account of its great altitude.

I am, &c.,

RICHARD GIBBS.

No. 227.

Mr. Gibbs to Mr. Fish.

No. 76.] LEGATION OF THE UNITED STATES,
Lima, Peru, July 13, 1876. (Received August 5.)

SIR: I have the honor to refer to my dispatch No. 47, January 10, in relation to the financial affairs of this republic, that have not improved since then. Exchange on London may be called the financial test of the country. At that time exchange was 31*d.* to the sol; American gold, 47 per cent. premium; Peruvian gold, 31 per cent.; and silver, 19 per cent.; and exchange has been as low as 25*d.* to the sol; American gold as high as 90 per cent. premium, and silver 44 per cent. To-day exchange is 28*d.* to the sol; American gold 65 per cent. premium; Peruvian silver, 37 per cent.

The banks have made no attempt to resume specie payments.

On May 16 the President issued a call for an extraordinary meeting of Congress, of which I inclose copy and translation.

The reason for this action on the part of the government was supposed to be to force some of the owners of the nitrate of soda works in the south, at the great nitrate beds, to come in under the expropriation decree of December 14, 1875.

These works are important and very productive, the export from this republic in 1875 amounting to 722,950,194 pounds, or over 322,745 tons; paying into the treasury under the old export duty the sum of 1,572,608 sols 36 cents, at 30 and 15 cents per quintal. This large shipment was due to the fact that shippers expected an increase of duty and sent all possible out of the country.

The government argued that the immense exportation of nitrate interfered with the sales of guano, the great product of Peru, and by having a monopoly of the supply it would not interfere with the guano and they could fill the demand of the commercial world as wanted; whereas now, by the great supply and competition, it injured the sale of the guano and by that the treasury of the republic.

The export duty of 60 cents per 100 pounds, as per decree referred to, did not stop the supply, as I see by the report of February this year that 677,444 quintals were exported, that produced in duties 332,085 sols 88 cents; part of the above paying 30 cents per quintal.

According to statements from the press, 36 works, valued at 11,145,000 sols, had conformed to the expropriation act; and some 14 works, valued at 4,170,000 sols, had refused to enter into terms with the government.

On June 15 the Congress met as by call of the 16th of May and the President opened it by reading an address, of which I send a translation taken from the South Pacific Times of Callao.

The following was made the order of the day for discussion:

ART. 1. Nitrate of soda exported to foreign countries from the ports of the republic shall pay 1 sol 25 cents per quintal export duty.

ART. 2. In case that exchange on Europe be more or less than 40 pence per sol, the duty must be paid so as to be equal to said exchange.

ART. 3. The government shall be authorized to reduce this duty to 40 cents at the same exchange of 40 pence per sol by giving one month notice, (discretionary.)

At the present rate of exchange the export duty would be equivalent to 1 sol 78 cents per quintal.

The debates in the Chamber of Deputies were lengthy and excited, the opposition charging that it was a useless despotic act, destroying a large business and throwing out a great deal of capital that had accumulated at the nitrate fields; useless because the fields of Bolivia were just as productive, and the act would be very beneficial to that country and in the end destructive to Peru; also that in the valuation made by the government commissioners great favor had been shown to some owners by overvaluation, and injury to others by the reverse.

In answer it was said that the fields of Bolivia had been farmed to one person, Mr. Meiggs, for a stipulated sum per annum, and that this government would have control over those fields, and that it was absolutely necessary for the treasury to have full powers over all the nitrate fields in Peru.

The debates in Congress were held up to July 6; when put to vote the decree was made law by 56 ayes to 33 noes, and the Congress adjourned on the 10th instant.

The banks have taken possession formally and assumed the administration of the nitrate works; the export is to be limited to 2,000,000 of quintals per annum, the banks to supply the payment to the expropriated owners and have the consignation abroad and receive 5 per cent. commission, they to receive 60 per cent. of the net produce of the nitrate if sufficient, the balance to be taken by the government for internal wants. This refers to the works under the former decree.

The deficit of the treasury for the fiscal year 1875–'76 is said to be 7,000,000 sols, and, if favorable loans are not made, calculated to be for 1877 and 1878 near 25,000,000. To meet this the government is making every exertion.

General Prado, the President elect, who went to Europe in March last as envoy extraordinary to make a loan, telegraphed on the 12th of June that he had been successful in contracting for 1,900,000 tons, on which

the contractors were to advance about 5 pounds sterling per ton for working expenses, extraction, loading, &c., an advance of £700,000 per annum, interest account reciprocal, 5 per cent. excess to be paid former bondholders to consolidate five semi-annual coupons of old debt from January 1, 1876, bondholders not to receive any amount until the 31st of December, 1877.

This news created quite a stir in political and financial circles, all hoping for better times; but exchange remains about the same and the public treasury empty.

In connection with the foregoing, I will state that on the 27th of May parties officially announced, large discoveries of guano in the south of Peru, near Ignigui, of over 3,000,000 tons, and another person on the 3d of June officially announced another discovery of 1,200,000 tons in another part south.

I am, &c.,

RICHARD GIBBS.

[Inclosure 1 in No. 76.—Translation.]

[Extract from El Comercio.]

We publish the supreme decree summoning an extraordinary Congress:

I, Manuel Prado, constitutional President of the republic, in use of the faculty granted by the second paragraph of the ninety-fourth article of the constitution, decree:

ART. 1. An extraordinary session of Congress will assemble on June 15 next.

ART. 2. It will meet for the purpose of discussing the necessity of increasing the export tax on nitrate of soda.

The minister of government will see that this decree is duly executed.

Given at the government house, Lima, May 16, 1876.

MANUEL PRADO.
AURELIO GARCIA Y GARCIA.

[Inclosure 2 in No. 76.]

[Extract from the South Pacific Times, Saturday, June 17, 1876.]

OPENING OF THE EXTRAORDINARY SESSION OF CONGRESS.

Early on the 15th instant the Plaza de Bolivia, in Lima, commenced to be thronged, in expectancy of the opening of the extraordinary session of Congress, and, notwithstanding the fact that the day was one of those which the Roman Catholic Church celebrates with more than ordinary pomp and solemnity, the assemblage was very large, even before its number became augmented by those who had attended the Corpus Christi procession, and who, having fulfilled their religious duties, were anxious to witness the assembling of the new Congress, either from a fondness for politics or a delight in sight-seeing. The troops were drawn up in line, and shortly before 3 o'clock the President drove up to the Congress Hall, at the door of which he was received by a deputation of senators and deputies, who escorted him into the speaker's chair, from which he read the following opening address:

HONORABLE REPRESENTATIVES: Although my constitutional term of office is about to terminate, I have believed it to be of public utility to appeal to your patriotism and to convoke an extraordinary session in order to terminate a matter which conclusive reasons render every day more apparent in the new and positive basis of our national treasury.

Being an opponent of narrow-mindedness in public affairs, I have considered it my duty in the last days of my government, as it was at its commencement, to steadfastly work for the benefit of the country, and more particularly to complete the task which has fallen to my lot of preparing those means for future governments of which the want has rendered my term particularly difficult.

I shall not endeavor to impress upon you the importance of the matter upon which you are about to decide, since it has already formed the subject of debate in your sessions. Neither shall I explain the actual condition of affairs, because the report of the minister is prolix and complete.

I shall confine myself to simply stating that I am pleased to be able to say that the numerous and intricate operations which had to be effected in order to obtain a revenue from the nitrate of soda, as provided by the law of May 28, 1875, have been effected, in the opinion of the government, in a manner which has proved as favorable to the interests of nitrate-owners as to those of the treasury.

A great majority of the nitrate-owners have accepted the terms offered by the government for the purchase of their properties, while those who have continued to manufacture nitrate for their own account have received good prices for their produce, and the treasury has obtained from it a rental which has not fallen below your anticipations.

Facts have demonstrated the truth of the principles upon which your decision was based, and the results which have been obtained in practice clearly point out the further and more important ends to which we may aspire by insuring the success of the operations which are now being worked out. The minister of the treasury will submit to your judgment the reasons which induce the government to suggest the precaution it believes should be taken in order to produce the best results in favor of the national treasury and the public welfare.

Legislators, the patriotic zeal with which you have responded to the call of the government satisfies me that you appreciate the motives which have led me to convoke this session, but which are, nevertheless, of such a nature that many have placed them in doubt.

A government which is on the point of retiring after a term of office which has been by no means free from difficulties and struggles, and which, before its retirement, convokes the representatives of the nation in order to obtain an increased taxation, really offers a spectacle and example which is by no means common, and which patriotism and self-sacrifice can alone explain.

But I have thought that the present is a particularly propitious moment for the calm discussion of this question, since the citizen who assumes the initiative in it is about to leave the government, and the advantages which will result from it will all fall to his successor.

I trust, gentlemen, you will do honor to these sentiments, whatever may be the decision which your wisdom and patriotism lead you to form, and which I fervently hope may be that which is most suitable to the interests of the nation.

No. 228.

Mr. Gibbs to Mr. Fish.

No. 77.] LEGATION OF THE UNITED STATES,
Lima, Peru, July 13, 1876. (Received August 5.)

SIR: I have the honor to refer to my dispatch No. 50, when I wrote last about the political affairs of this republic.

The different provinces have held their electoral meetings, and General Prado has been named by a large majority to be President of the republic for the four years from the 2d of August next. He is expected here about the 17th of this month from Europe.

On the 22d of March, at the town of Chuquibamba, in the province of Arequipa, a rising was made by the followers of Pierola, and an attack on the town, which was repulsed by the armed police under the lead of a sub-prefect. About 25 were killed on both sides.

June 9 a more serious rising was attempted at the city of Cuzco, in which a colonel, two sergeants, and others made an attempt to revolutionize the city. The fighting continued about ten hours, when the movement was stopped. On the part of the government about 20 were killed and a large number were wounded; a number of the inhabitants were killed and wounded, among the former four women. This attempt is supposed to have been started by the followers of Pierola.

The republic is in a state of peace, and I think will continue so. The opening of Congress will take place on the 28th instant, anniversary of the independence of the republic.

I have no doubt that General Prado will take charge of the presidency on the 2d of August peacefully.

Up to the present, President Prado's government has been very successful in quashing at the start all attempts to revolutionize the republic.

President Prado is closing the term of his administration with a series of banquets. The first was given on the 9th instant to the army, navy, national guard, and police.

I inclose a report of his speech in Spanish, and a correct translation from the South Pacific Times.

I am, &c.,

RICHARD GIBBS.

[Inclosure.]

[From the South Pacific Times.]

BANQUET TO THE ARMY AND NAVY.

The banquet given by President Prado to the army and navy, the civil guard, and the police force, which came off on the 9th instant, was even more successful than the warmest admirers of the administration had expected it would be. The scene in the court-yards of Santa Catalina is said to have been exceedingly brilliant, while the effect produced by the two speeches delivered by President Prado was remarkable. The first speech was specially to the men of the army, navy, civil guard, and police forces, and in concluding, President Prado thanked them for the loyalty they have shown to his government, and expressed the wish that they would always observe the same course of conduct, and thus prove their desire to serve the republic.

The second speech was directed to the superior officers of the different corps, and during its delivery President Prado was repeatedly applauded and cheered. In terminating his speech, His Excellency showed evident signs of being strongly moved, while many of his audience reflected in their features the effect the words produced on them. The following is a translation of this speech:

"Within a few days I shall perform one of the most sacred duties imposed by the republican system, and shall return to the representatives of the nation the supreme authority with which I was invested for a constitutional term. This sacred duty, as I considered it, is one which is noteworthy in the history of nations, since its repetition possesses innumerable meanings and exercises important influences on the life of a people.

The change of government which follows the conclusion of the legal period of my administration is in obedience to the law which governs society, and proof of society, from the first of its magistrates to the last of its citizens, submitting to the majesty of the law. It is peace, social order, moral and political progress, and the predominance of all those good social elements which elevate the character of a nation and render it worthy of the esteem and respect of the civilized world. All these advantages are embraced by the legal transmission of the supreme power, because that cannot be effected unless the majesty of the law and the predominance of those good elements have triumphed during the four years in which they have had to maintain a constant struggle against the elements of disorder to be found in all societies, and which are more abundant, more troublesome, and more powerful, in proportion as societies are well or ill constituted. In this arduous campaign, which has been more arduous during the period now terminating than during any preceding one, the principal glory has been yours, because you have formed bulwarks against which all the attacks of the wicked have been shattered, and because you are those whose breasts have protected the institutions of our country from abuse, and because with all honor you can to-day raise the standard of loyalty at witnessing him who has been for four years your chief, descend with calmness and serenity the steps of the presidential dais.

Gentlemen, the lessons of political morality which are taught by history are elevated in the extreme. History holds up events to the inspection of the different generations, and to us it teaches a recent and eloquent lesson.

A period of wealth and abundance, sustained by a numerous army, was terminated by a law-killer, who shattered the power of the government and the army. A period of poverty and hardships, sustained by a small army and exposed to the repeated attacks of its enemies, to-day terminates with the triumph of the law, and exhibits yourselves, the supporters of it, as the most powerful army ever yet possessed by Peru. In view of this contrast, before which the mind trembles, but patriotism and faith revive and feel renewed faith, allow me to take to myself the modest part which is my due in the beneficial reaction. My glory has consisted in feeling firmly convinced of the truth of principles, in the patriotism of men, and in the virtues of peoples.

For this reason I took care to organize the public forces upon principles analogous to the elevated duties they have to perform. For this reason I intrusted the defense of my government to the temper of the heart rather than the temper of the sword. For this reason I sought those hearts not exclusively under the uniform of the soldier, but also under the coat of the gentleman and the blouse of the laborer, and I made their interests one with those of my government, and intrusted to them the defense of our institutions and our liberties, and of the rights and interests of our country. For this reason I have established moral discipline in the army, in place of fear and terror which formerly existed; have based its reform in education and rivalry, in place of ignorance and favor; have converted the soldier into a free man, in the place of a prisoner; have established schools for officers and subalterns, which insure the continuance of the system; and, finally, for this reason I have raised the spirit of the army, and have trebled its real strength while diminishing its number, and have rendered the military uniform esteemed and beloved by all classes of society. At the time I thus spread democracy in the army I created a military spirit in the nation. Yes, gentlemen, I have produced such a spirit in the widest and most liberal and generous sense of the word. I have converted it into an army of soldiers by intrusting the defense of society to society itself, and by charging all classes of it with the preservation of the constituted authority and the guarantees of public liberty.

In this work of re-organization the navy has had but little participation. The ability of its officers had already raised it to such a standard that my government has had little else to do but to endeavor to nationalize the crews and to establish schools, where the honorable traditions may be remembered of those who have done much honor to our flag.

The police forces, also, with their new organization, have been inspired with new spirit, and they are now converted into skillful and watchful protectors of the interests of all our citizens. This has been the work performed by my government in its re-organization of the public forces. What has been the manner in which you have responded to my labors and desires? An entire book would be required to answer this question.

The nation has witnessed your parades, your struggles, and your victories. The nation has witnessed the outbreak of a civil war; has seen thirty-five battalions, impressed within a fortnight, scatter over the country, quell a revolution within sixty days, and then again disappear into the private life of the desk and the bench. What at first was witnessed with incredulity has subsequently produced enthusiasm and admiration. But I have seen more than this, because I have seen your sufferings: I have seen your constancy, your loyalty and your enthusiasm; I have seen the soldier fighting without pay; I have seen an officer, wounded at Los Angeles, carried off crying "Long live the government!" I have seen wealthy men desert their comfortable homes and their business to take their places at the head of their battalions, which they sustained from their own means because the treasury was exhausted; I have seen the artisan close his workshop and leave his wife and children without the means of support, and with his rifle on his shoulder embark in ignorance of the destination to which he was ordered; I have seen the policeman fall at his post at the hand of the assassin, in defense of the life and property of the citizen, who awoke tranquilly the next morning in ignorance that his sleep had cost the life of a fellow-citizen.

And what more? I see you to-day meet here together in the full sense that you each and all have fulfilled your duty to the country; and surrounding a government which is on the point of terminating, after a period full of opposition, and at an epoch when illusions cease and all are undeceived as to results, you surround me to say farewell with the same enthusiasm and esteem as that with which four years ago you presented me your congratulatory salutations.

Gentlemen, for me, this circumstance is most satisfactory; but it is also honorable to yourselves, since men who so organize and struggle to sustain their convictions and their sentiments can only possess high spirit, profound convictions, and noble sentiments. I say that this is to your honor. It is, consequently, also more to merit the esteem of such hearts, and to see that, on the last as on the first day of my government, they consider me worthy of their support. One word more and I have done. I desire that the memory of these four years of honorable sorrow may always sustain you in the fulfillment of your duty and in the love of our country, as it will always insure you a high place in the esteem of your fellow-citizens.

Gentlemen, I trust you may always serve the republic in the same manner.

Loud and long cheering followed the delivery of this speech, and when the excitement abated it was determined that all present should escort the President to his house on foot. The proposition was carried out, and all present attended to take leave of him at his own door.

No. 229.

Mr. Gibbs to Mr. Fish.

No. 82.] LEGATION OF THE UNITED STATES,
Lima, Peru, August 12, 1876. (Received August 31.)

SIR: I have the honor to inform you that the President, General Don Mariana Ignacio Prado, was inaugurated on the 2d of August, the change of administration being carried out peacefully, with all the dignity due to such an act. On that day Congress met in joint session, D. Manuel Pardo, the outgoing President, reading a short address, of which I inclose copy and translation; when finished, the President took off the bi-colored sash, the insignia of his office, handing it to the president of the senate. The president of the session read an answer to Mr. Pardo's address, of which I inclose copy and translation.

Immediately General Prado, the elected President, entered the chamber accompanied by a joint committee of senators and deputies, advancing to a table on which were placed a copy of the Holy Evangelists, a crucifix, and two lighted candles. The general knelt on a cushion placed before the table, placing his hand on the scriptures, reading the prescribed oath, swearing to maintain the constitution and the religion of the State. Arising from his kneeling position he subscribed to the oath. The president of the session handed him the sash, which he placed on his shoulders, and he was thus duly installed as constitutional President of the republic for four years to August 2, 1880.

The president of the session read an address directed to General Prado, of which I remit copy and translation. When concluded, the President and Ex-President walked together from the chamber of deputies to the government-house, nearly half a mile distant. On their way it was a continuous ovation by cheers for both from the multitude who lined the streets, while flowers were thrown from the balconies as they passed.

The diplomatic corps occupied a gallery set apart for their use during the foregoing ceremonies, and at the conclusion went in a body to the government-house, and through the dean, Mr. Godoy, minister plenipotentiary from Chili, congratulated the President on his exaltation to his position. His Excellency in a few expressive and well-chosen words gave his thanks, saying, also, that he heartily desired a continuance of the good feelings that so happily existed between Peru and the nations represented. They then proceeded to the house of the Ex-President and awaited there his arrival, and individually spoke a few words of congratulation for the success of his past administration, so peacefully carried out.

I feel pleased to be able to inform you of this very peaceful transmission of power from one administration to another, as a dread has been freely expressed of some revolutionary movement in the republic, principally in the south, but up to the present, as far as I can learn, the change has been received peacefully and apparently by acclamation of good will in all parts.

I will add a few lines, giving a sketch of the President's political career. When the Vivanco Pareja treaty was signed, in January, 1865, Colonel Prado was prefect of Arequipo, and organized a revolution against General Pezet. This movement terminated successfully with Prado's entry into Lima, November, 1865. He was immediately proclaimed dictator, and his first step was to form an alliance with Chili, Bolivia, and Ecuador, and declare war against Spain. He at that time

formed one of the best cabinets ever organized in Peru—Galvez, Pacheco, Pardo, Quinpee. Under his direction the fortifications of Callao were put in order, and, the 2d of May, 1866, the Spanish fleet were driven off. He was afterward proclaimed President by the constitutional Congress. In August, 1867, Arequipo rebelled against him. Leaving the supreme power in the hands of General La Puerta, he took the field against the insurgents, was defeated, and, in December, left and came to Lima, took refuge in this legation, and was secretly conveyed on board the United States steamship Nyack. By that vessel he reached Chili, in great poverty, subscriptions by his friends in this capital being necessary for his support.

The Chilian Congress conferred upon him the rank and pay of general, in view of his services against Spain; later on, in 1870, Peru also gave him the same grade.

Since 1868, greater part of his time has been passed quietly in Chili, farming and banking, the latter pursuit proving disastrous.

In 1874 he returned to Peru to take his seat in Congress as senator from Callao; from there he retired to Chili, and was nominated by the administration party as candidate for President, being elected 17th of October last.

There were three candidates for the first vice-presidency, Elguera, Rivas Aguero, and General Le Puerto. Neither of the candidates having a majority of the electoral college, the election was thrown into the National Congress, and on the 8th General Luis La Puerta was declared elected, and on the 10th was duly inaugurated by the same ceremony as the President.

I am, &c.,

RICHARD GIBBS.

[Inclosure 1 in No. 82.—Translation.]

[From the South Pacific Times, August 5, 1876.]

HONORABLE REPRESENTATIVES: I have now to perform my last duty as President by delivering to you the supreme authority of the nation; and in doing so I have yet another to perform, and to thank the nation for the assistance it has given me in the performance of a difficult task; to thank you for the honorable proof you have given me of your confidence in me, and all classes for their decided and friendly co-operation. I trust that these common efforts may prove as beneficial to the republic as the motives have been patriotic which have sustained us, and that when posterity gives its decision on our conduct, it will concede that we have fulfilled our duty to our mother country.

[Inclosure 2 in No. 82.—Translation.]

[From the South Pacific Times, August 5, 1876.]

The speaker of Congress answered Ex-President Pardo as follows:

HONORABLE CITIZEN: In publicly returning the insignia of the high office with which you were honored four years ago you have loyally fulfilled your duty. The decided and self-sacrificing support you have received from the country; the confidence reposed in you by Congress; the hearty manner in which the populace has supported you in the arduous work you have so patriotically undertaken and performed, have all arisen from the common interest which exists between the governed and the governors in the orderly and peaceable life of the republic. The judgment of posterity upon contemporaneous events will form one of the brightest pages in our history, since, in rendering justice to truth, it will have at least to say that your government has been a loyal and submissive one, which has accepted the responsibility of its actions, and has submitted itself to the double tribunal of the state authorities and public opinion. You may well, sir, await the judgment of the future in the full confidence that you have done your duty to your country.

[Inclosure 3 in No. 82.—Translation.]

[From La Patria, Lima, August 2, 1876.]

CITIZEN PRESIDENT: Under a solemn promise given with sincerity on the faith of the Holy Evangelists before the representatives of the nation, you have assumed the serious responsibility to comply faithfully with the high duties that patriotism and the law imposes on the magistracy which the free and voluntary vote of the country have honored you with.

Happily for Peru the time has passed with many other things, vain desires, want of knowledge, that supplanting of the popular will; at times by astuteness, others by the subversion of the army carried out with success imposing on the republic a tutelage more or less somber, more or less durable those usurpations.

The moral and intellectual progress of the country, the evident improvement of its tone and social state, and, in consequence of those dearly-acquired qualities, the predominance of sensible opinions in the aspiration and advance of parties, in the originating and solving of political acts, have obstructed the fountains of those abuses and restored to public power the true titles of legitimacy.

Although popular spirit was over-excited in 1868 by a severe recent intestine strife, they founded under the shadow of the law a government of peace, and the desire of the majority in 1872 realized another succession equally constitutional; this same sovereign will ratifies to-day a firm decision to maintain in all its integrity obedience to the law, having established and consecrated by an election, free as peaceful, the new administration inaugurated on this solemn day.

Notwithstanding all the convulsions which have commoved the entire country in those eight years past, placing the stability of the government more than once in danger, public opinion has been powerful enough, under all circumstances, to confine the fearful ills of anarchy, and we congratulate ourselves with the assurance that your administration will not be less zealous in defending the conquests of peace, and will be equally fortunate in meriting the confidence and assistance of the nation.

The voluntary free indication with which the people have again named you to control their destinies is doubly honorable to you, citizen President. It signifies that the country have not forgotten, on the contrary, desires to correspond to, the eminent services due to you in the liberal reform, of patriotic institutions, honest policy, and administrative probity, strengthening your past government by the true democratic spirit which will animate you, and by the high examples of integrity and abnegation; it also signifies that the Peruvian nation, loving its glories, does not wish to see tarnished with the ingratitude of factions the brilliancy of the laurels that crown the brow of the fortunate victor of the second of May.

Exceptionally critical are the circumstances and the epoch, citizen President, in which you assume the administration of our country. Re-established the regenerating movement which political reaction would strangle in the narrowness of its views, the nation has a second time entered with an invincible resolution, and full of confidence of its national destiny in the path of prudent reforms, useful advances of positive improvements, and the sound solutions of liberty. If the previous administration has had the honor and satisfaction of having fixed the basis of our reorganization, and communicated the first impulse to the propagation of all the strength created, of all the vital elements, of all the legitimate and useful inspiration to be seen by an inquiring mind, you, sir, are called to a mission as grand and noble, but more laborious and patient; that is, to utilize and make effective for the republic the new institutions which have been given, using them with intelligence and perseverance, assisting with judgment their consolidation and perfection.

Laboring in this manner, under the inspiration of the patriotic faith that animates you, doing justice to the spirit of your government, and making the law and public wishes the principle of your administration, you will realize, sir, the national prosperity which is the desire of all hearts, and will add another mark of honor to your glorious antecedents.

No. 230.

Mr. Gibbs to Mr. Fish.

No. 90.] LEGATION OF THE UNITED STATES,
Lima, Peru, August 21, 1876. (Received September 12.)

SIR: Referring to my dispatches 77, 81, 82, and 83, I have the honor to inform you of the events of the last few days. That you may under-

stand them more clearly, I will give some ideas of the political situation of the country.

Up to July, 1872, Peru, like most of the South American republics, had been governed by military men or parties, frequent revolutions were the results, the barracks being the focus of the different transformations in the changes of military power.

But the people becoming more enlightened by education and a better system that had developed itself in the country, an attempt was made in the election of 1871 to place some person in the presidential chair who was not a military man and who had been educated to the life of a civilian. Mr. Pardo was chosen, and the mass of the educated and thinking part of the community joined, and he was elected to take his seat in August, 1872; this was the formation of the party called civilists, in contradistinction of the military adherents. This party made their last attempt to revolutionize the country headed by the Guturrez brothers, which ended so disastrously for them in July, 1872. Since then the "civilists" have had full power in the country. Through their assistance General Prado was elected, and they have a large majority in the senate and Chamber of Deputies, consisting of the intelligence of the country, being very liberal in all questions affecting the welfare of the nation.

Mr. Pardo carried out the idea of his party by reducing the power of the military, cutting down the army, diminishing the number of the officers, and placing many on the retired list of "indefinidos" at half pay. A judgment may be formed of their power from the following note from the last report of the army list in active service and half pay:

Field marshal	1
Generals of division	5
Generals of brigade	21
Colonels	74
Lieutenant-colonels	404
Majors	470
Captains	544
Lieutenants	577
Ensigns	449
Chief surgeons	31
First class	21
Second class	15
Paymasters-general	4
Paymasters, assistant	10
Clerks	3
Total	2,629

Which is nearly as many in numbers as form the file of the Peruvian army at present.

Some futile attempts were made during the administration of Mr. Pardo, but were crushed out immediately. This great number of officials who have been accustomed to live on the state is a standing menace against the prosperity and peace of this country. I cannot find any patriotism in any of their attempts, being solely guided by personal and ambitious ends, using every means to regain their lost power. Unfortunately the pecuniary state of the country and the poverty of the treasury have thrown a great many people out of employment, who are discontented and, like all of this Spanish race thoughtless to causes and effects, think that the government should remedy all.

From 1868 to 1872, during Colonel Balta's administration, was the period of extravagance and the squandering of the products of the guano-beds; no economy, no thought of the future. Guano was thought to be inex-

haustible, and the demand was supposed to be equal to the supply. When the civilists came into power the product of the guano-deposits had been contracted for up to 1877; no money in the treasury, and a large civil and military list to be maintained. Mr. Pardo's administration had many evils to contend against; looking at the history of these last four years impartially, I think it has been patriotic and, to a certain extent, successful.

General Prado, on accession to power, formed a cabinet that was composed of three civilists, Messrs. Garcia y Garcia, Bonavides, and Coranibar. Arenas, president of the council, was of the former opposition of Mr. Pardo; Mr. Burtamante, of the war department, was considered independent, being taken from the army for his knowledge of the detail of military affairs.

On the 8th instant, about thirty-nine members of the Congress, "civilists," met at the house of one of their number and held a meeting or caucus.

The appointment of Dr. Arenas as president of the council or cabinet was the cause of this reunion. The idea discussed was that, as the civilists held a large majority in senate and chamber, it was not politic to take from the ranks of their antagonists a person to fill the important position of minister of justice; they declared unanimously against it. The discussion afterwards, what position they should take, lasted some time; some of the most ultra recommended that they should take strong grounds against the government; other opinions prevailed; it was decided to remain quiet and watch events, not to oppose the government, only when they or their policy were attacked.

This meeting caused a great deal of discussion in the press, two of the opposition papers, "La Patria," and the church paper, "La Sociedad," have attacked the "civilists" with great force and with rather incendiary articles, that have fanned the flames of trouble and disorder.

On Tuesday, 15, a meeting was held to protest against the action of the thirty-nine deputies. This meeting adjourned to the principal plaza or square; about 500 persons were assembled; strong protests and resolutions were read and received with acclamations by the meeting, and it adjourned quietly; the press during the week followed up with articles *pro* and *con*, which did not tend to pacify.

A meeting was advertised to take place yesterday, Sunday, the 20th; two calls were issued, one to the "fraternity and military union," to be held at San Francisco square; the other to the "electoral college of Lima," to be held at Bolivar square at 2 o'clock. Both meetings went to the main square, front of the cathedral, which has a wide space or esplanade in front, with steps to the street; from the steps the orators spoke to the assembly, some three thousand people, haranguing against the action of the thirty-nine deputies, the "civilists," and Mr. Pardo's administration; accusing it of being a ring for the benefit of his friends and of robbing the nation. The speeches were incendiary in character, and the speakers who attempted to counsel moderation and common sense were not allowed to proceed. In one corner of the square are the rooms of the "union club," being social, and comprising most of the young men of wealth, position, and intelligence. Many of them are supposed to be "civilists," but in no way is it a political club.

The speakers pointed to this place and alluded to it in marked terms of anger and accusation. The greater part of the speeches were demagogical and inflammatory, and I foresaw that trouble and riot would be the consequence; about 3 o'clock the mob commenced to tear up the small cobble-stones with which the greater part of the square is paved;

and in a few moments every casement-window of the balconies of the club-house was broken; then the crowd cried death to Pardo, and started for the Ex-President's house; some friends forewarned him, and the large gates to the entrance were closed in time, the mob venting their fury in yells and destroying the windows.

This is the man that on the 2d of August was accompanied in triumph to his residence with flowers thrown on him from the balconies as he passed. The mob went to the office of the newspaper "El Comercio," organ of the late government, and broke the windows, besides doing other damage.

I have heard of several being shot by the police, some four killed and wounded during the attack on Mr. Pardo's house.

About 8 o'clock, when all seemed quieted down, a mob went to the store of two American citizens, Messrs. Wexel & DeGress, agents and dealers in arms and ammunition, broke it open, and in a very short time sacked it; they are large dealers, their principal house being in New York, having branches here, Mexico, and Chili.

At 11 o'clock all was quiet. I came through the streets at that hour, and noticed that squads of troops were stationed at the different banks, and a squadron of cavalry stationed in the main square. There has been more or less excitement during this day, but no overt acts committed, so far as I have heard.

In the Chamber of Deputies a vote of censure on the ministry was proposed and referred to a committee. In the afternoon a proclamation was made by the President, of which I inclose copy and translation.

At this hour, 8 p. m. all is quiet; stores and shops are all closed; troops under arms in squads on the streets; the main square is closed to the public, and a proclamation of the subprefect of the city forbids all gathering in groups on the streets.

I am, &c.,

RICHARD GIBBS.

[Inclosure.]

[From El Comercio, August 21, 1876, evening edition.—Translation.]

The President of the Republic to the people of Lima:

Yesterday a political reunion, being called by various citizens, was realized; when finished, a part of the people, led astray by bad instigations, commenced to commit disorderly acts, which I highly reprove and condemn, and which I will suppress with firmness if unfortunately there is any attempt of their repetition.

Inhabitants of Lima, continue without fear your ordinary occupations; the government watches over your tranquillity.

LIMA, *August* 21, 1876.

MARIANO I. PRADO.

No. 231.

Mr. Gibbs to Mr. Fish.

No. 92.] LEGATION OF THE UNITED STATES,
Lima, Peru, August 26, 1876. (Received September 21.)

SIR: On the 22d and 23d instant the debate over the vote of censure on the ministers of justice and interior was carried on in the senate and terminated on the evening of the 23d. The vote to censure Dr. Arenas was carried by a large majority; on Dr. Bonavisdes by a smaller one.

On the 24th those two gentlemen resigned; their resignation was fol-

lowed by that of the other members of the cabinet. General Prado would not accept their resignations. To-day the two first named insisted on resigning, and their resignations were finally accepted.

Dr. Teodore La Rosa was named, in place of Dr. Arenas, chief of cabinet, and he named Col. Manuel G. de la Cotera as minister of government for the interior. The appointment of these two persons seems to to be satisfactory to all.

On the 22d, 23d, and 24th great fears were entertained of a revolution; the streets were patrolled by cavalry and infantry; the barracks were filled with soldiers; but everything remained quiet, and apparently will remain so.

I am, &c.,

RICHARD GIBBS.

PORTUGAL.

No. 232.

Mr. Moran to Mr. Fish.

No. 53.] LEGATION OF THE UNITED STATES,
Lisbon, January 5, 1876. (Received January 31.)

SIR: On the 27th ultimo I sent to Mr. Corvo, with a note, a copy of which I inclose, a pamphlet copy of the President's message, and on the 4th instant I received a cordial letter of acknowledgment, a copy of which and translation, together with my reply, are forwarded herewith.

It will be noticed that Mr. Corvo asks me to express to my Government the deep sense of admiration of His Majesty's government for the President's recognition of the Portuguese act of emancipation of the 29th April, 1875, and the declaration that His Majesty's government offers most earnest prayers, in union with those of President Grant, that the time may be near when the notion may be wholly repudiated that man can subject his fellow-man to bondage.

In my reply to Mr. Corvo I have expressed the gratification it will afford me to convey to you the sentiments of his government in regard to the President's reference to the act perpetually abolishing human slavery throughout the dominions of the Portuguese monarchy, and I feel I cannot better discharge this pleasant duty than by transmitting to you, as I do herewith, copies of the correspondence which has passed between me and Mr. Corvo on the subject.

I have, &c.,

BENJAMIN MORAN.

[Inclosure 1 in No. 53.]

Mr. Moran to Mr. Corvo.

LEGATION OF THE UNITED STATES,
Lisbon, December 27, 1875.

SIR: Having received a few pamphlet copies of the President's recent message to Congress, I beg to inclose one herewith for your acceptance, and am, with great respect, your excellency's most obedient servant,

BENJAMIN MORAN.

His Excellency JOÃO DE ANDRADE CORVO,
&c., &., &c.

[Inclosure 2 in No. 53.—Translation.]

Mr. Corvo to Mr. Moran.

OFFICE OF THE SECRETARY OF STATE FOR FOREIGN AFFAIRS,
January 1, 1876.

The message of the President of the United States of America, recently addressed to Congress, where it speaks of foreign affairs, makes reference in such a very honorable manner to Portugal, to the promulgation of the law of April 29, 1875, by which speedy emancipation is given to the slaves in all the colonies of the Portuguese monarchy, and by which the state of slavery there has been abolished in perpetuity, that I cannot resist asking your excellency kindly to express to your Government the deep sense of admiration of His Majesty's government for such a sentiment.

This government, esteeming very highly the words of President Grant and his high testimony to the approval deserved by its constant efforts to perfect this humane intention, offers most earnest prayers, in union with those of the high Magistrate who presides over the destinies of the great American nation, that the time may be near when the notion may be wholly repudiated that man can subject his fellow-man to bondage.

Renewing the assurance of my highest consideration, &c.

Office of the secretary of state for foreign affairs, January 1, 1876.

JOÃO DE ANDRADE CORVO.

BENJAMIN MORAN, Esq.,
&c., &c., &c.

[Inclosure 3 in No. 53.]

Mr. Moran to Mr. Corvo.

LEGATION OF THE UNITED STATES,
Lisbon, January 5, 1876.

SIR: I hasten to acknowledge the receipt of your excellency's note of the 1st instant, expressing in warm language the satisfaction with which His Most Faithful Majesty's government has received the remarks made by the President of the United States of America in his last annual message, congratulating Portugal and the civilized world on the promulgation of the law of April 29, 1875, by which speedy emancipation is given to the slaves in all the colonies of the Portuguese monarchy, and by which the state of slavery there has been abolished in perpetuity; and I shall not fail to comply with your excellency's wish, and promptly convey to my Government the deep sense of admiration entertained by His Majesty's government for the sentiments which the President has been pleased to express upon this humane and just proceeding.

I observe with pleasure that His Majesty's government joins with President Grant in earnest prayers that the time may be near when the notion may be wholly repudiated that man can subject his fellow-man to bondage; and I am sure that my Government will receive this expression of the sentiments of Portugal in regard to slavery with feelings of the liveliest satisfaction.

I avail myself of the occasion to renew to your excellency the assurances of my highest consideration, and am, sir, &c.,

BENJAMIN MORAN.

His Excellency JOÃO DE ANDRADE CORVO,
&c., &c., &c.

No. 233.

Mr. Fish to Mr. Moran.

No. 30.] DEPARTMENT OF STATE,
Washington, February 15, 1876.

SIR: Your dispatch No. 53, under date of January 5 ultimo, has been received. It informs the Department of the transmission by you to Mr. Corvo, the minister for foreign affairs at Lisbon, of a copy of the President's last annual message to Congress, and incloses a translation of a

note received from Mr. Corvo, acknowledging its receipt, and also a copy of your note in reply thereto.

The expression of the deep sense of appreciation of the Portuguese government, contained in Mr. Corvo's note, of the President's recognition in his message of the Portuguese act of emancipation of April 29, 1875, has been received with satisfaction by the President, and he directs me to express the gratification that will attend the actual emancipation of slavery in the Portuguese colonies as provided by the act in question.

Your note to Mr. Corvo upon the subject meets with the approval of the Department.

I am, &c.,

HAMILTON FISH.

No. 234.

Mr. Moran to Mr. Fish.

No. 69.] LEGATION OF THE UNITED STATES,
Lisbon, March 27, 1876. (Received April 18.)

SIR: On the 9th instant, I addressed a note to Mr. Corvo, in compliance with the instructions in your No. 30, of the 15th of February, conveying to His Most Faithful Majesty's government the congratulations of the President on the passage by the Cortes of the act of emancipation of the 29th of April, 1875; at the same time intimating the pleasure he would feel on hearing of the actual abolition of slavery in the Portuguese colonies, as provided by the act in question; and I added the expression of my belief that the realization of that pleasure would be hastened by the project of law of the 4th of January, 1876, by which the immediate liberation of all persons then in a servile state in the province of St. Thomas and Principe was provided. Mr. Corvo replied on the 13th instant, thanking me for my note and for the reference I made to his exertions in securing the enactment of the proposed law. I inclose copies of this correspondence.

The project of the 4th of January, to which I have referred, was passed by a large vote of the Cortes, although considerable opposition existed to it on the part of some of the landed proprietors of St. Thomas, became a law of the realm by royal proclamation on the 3d of February, and is now in full force. It consists of three brief articles, as follows:

ARTICLE 1. "The servile state described in the decree of the 25th of February, 1869, is considered extinct in St. Thomé from the date of publication of the present law in the said province, and those to whom it referred are considered free."

ART. 2. "All the dispositions contained in the charter of law of the 29th of April, 1875, and the regulations appended thereto approved by decree of the 20th of December of the same year, shall immediately be put into force in the said province."

ART. 3. "All legislation to the contrary is hereby revoked."

It will be seen that this act gives *immediate* liberty to all the persons in St. Thomas and Principe known as "freedmen" and "apprentices," instead of holding them to their contracts for one year after the publication of the law of April, 1875. That law was not promulgated in St. Thomas until the 3d of July last, and consequently would only have come into force on the 3d of July of this year, had not the project of the 4th of January given it instantaneous effect.

Some interested persons have tried to throw doubt upon the sincerity of the intentions of this government to carry out these measures of

emancipation, but I regard such doubts as grossly unjust. The government is in earnest, and the result of their action will demonstrate this to the world.

I have, &c.,

BENJAMIN MORAN.

[Inclosure 1 in No. 69.]

Mr. Moran to Mr. Corvo.

LEGATION OF THE UNITED STATES,
Lisbon, March 9, 1876.

SIR: I have the honor to acquaint your excellency that I did not fail to transmit promptly to my Government a copy of the letter which you addressed to me on the 1st of January last, together with a translation thereof, expressing the deep sense of His Most Faithful Majesty's government of the recognition by the President of the United States, in his late annual message to Congress, of the Portuguese act of emancipation of the 29th of April, 1875; and I now have the pleasure to inform you that your note was received with satisfaction by the President, and that he has been pleased to direct Mr. Fish to express to His Most Faithful Majesty's government, through me—a duty which I now cheerfully perform—the gratification that will attend the actual abolition of slavery in the Portuguese colonies as provided by the act in question, a gratification the realization of which, I venture to add, will be hastened by the decree of the Cortes of the 4th of January of the present year, which extends the provisions of the act of April, 1875, to the island of St. Thomas, and which decree was, I believe, passed through your excellency's energy and able advocacy of the cause of freedom.

I avail myself of this opportunity to renew to your excellency the assurances of my highest consideration, and

I am, with great respect, your excellency's most obedient servant,

BENJAMIN MORAN.

His Excellency JOÃO DE ANDRADE CORVO, *&c., &c.*

[Inclosure 2 in No. 69.—Translation.]

Mr. Corvo to Mr. Moran.

MINISTRY OF FOREIGN AFFAIRS—POLITICAL DEPARTMENT.

I have had the honor to receive the note which your excellency addressed to me, dated the 9th instant, informing me that you forwarded to your Government a copy and translation of my note, dated the 1st of last January, with reference to the act of April 29, 1875, which abolished slavery in all the ultramarine provinces of Portugal; in which letter your excellency, acquainting me with the congratulations of the President of the United States of America on the happy results which must ensue from such important provisions for the prosperity of the same possessions, congratulates me on promulgation of the new law which at once abolishes slavery in the province of St. Thomé and Principe.

Thanking your excellency for the expressions employed by you in my favor in the note to which I allude, and for which I am so deeply indebted, I beg to inform your excellency that I shall not fail to acquaint the minister of marine with its contents.

I avail myself of this occasion to renew to your excellency the assurances of my highest consideration.

Office of the Secretary of State for Foreign Affairs, March 13, 1876.

JOAO DE ANDRADE CORVO.

BENJAMIN MORAN, Esq., *&c., &c., &c.*

No. 235.

Mr. Moran to Mr. Fish.

No. 95.] LEGATION OF THE UNITED STATES,
Lisbon, October 28, 1876. (Received November 16.)

SIR: In December, 1874, the civil governor and other local authorities of Ponta Delgada, in the island of St. Michaels, in the Azores,

demanded of and received from Mr. Ivens, the United States consular agent at that place, 16,200 reis in insular money for passports for nine destitute American seamen, which sum was disallowed in his accounts by the Treasury of the United States, on the just ground that charges for such passports could not be exacted from American citizens by foreign governments. I thought the case one deserving my attention, and having made sure of the facts in this instance of unjust exaction, and learned from Mr. Diman that no such charges have ever been made at this port, for the reason that the laws of Portugal provide such safe-conducts—passports or permits of embarkation can be furnished to destitute persons free of charge—I brought the case to Mr. Corvo's attention. He has replied that orders for restitution of the money have been given, and I have expressed to him my satisfaction at this action.

As my note of the 15th June, to Mr. Corvo, contains the substance of Mr. Dabney's reports to me of the case, I forward copies of that note and subsequent correspondence herewith, for the information of the Department.

I am, &c., &c.,

BENJAMIN MORAN.

[Inclosure 1 in No. 95.]

Mr. Moran to Mr. Corvo.

LEGATION OF THE UNITED STATES,
Lisbon, June 15, 1876.

SIR: I have the honor to bring to your excellency's notice the fact that in December, 1874, the civil governor of St. Michaels, in the Azores, demanded of and received from Mr. Ivens, the United States consular agent at that place, the sum of $13.50 United States gold currency, equal to 16,200 reis in insular money, for passports for nine destitute American seamen who were sent at that time from that port to Boston in the Portuguese bark "Amisade," Captain Francisco José de Mello.

This item of expense was duly reported to the Government at Washington, in Mr. Ivens's accounts, for aid to distressed American seamen in his district, but the Government disallowed the sum on the ground that no foreign government can rightfully require and charge for passports for distressed American seamen returning to the United States.

I am informed that at the port of Fayal, in the Azores, and also at Lisbon, whence thousands of "consul's men" have been sent to their homes, no such charge has ever been made, for the reason that the law provides that safe-conducts of embarkation can be furnished to destitute persons free of charge. And this provision is both humane and just. It is to be found in article 3, section 2, of the general regulations of police, and is as follows: "For the 'visé' of a passport, as well as for the grant of the safe-conduct, travelers shall pay the sum mentioned in the table accompanying these regulations; *excepting, however, destitute persons and mendicants.*

As the practice of exacting such fees does not prevail in Lisbon or other ports of His Most Faithful Majesty's dominions, both continental and ultramarine, I therefore have respectfully to request that His Majesty's government may be pleased to institute inquiries into this case, and if it be found as represented, that his excellency the civil governor of St. Michaels may be instructed to make restitution to Mr. Ivens of the 16,200 reis paid as above described, and be also requested not to insist upon the collection of such fees on account of distressed American seamen.

The practice of His Majesty's government in other ports in similar cases leads me to the conclusion that the civil governor of St. Michaels acted from a misapprehension in this instance; as I cannot for a moment believe that His Most Faithful Majesty's government would authorize the demand of fees of the kind from distressed foreign seamen, who by wreck or otherwise may have been cast upon its shores destitute.

I regret the necessity which compels me to bring this case before your excellency, but as it unfortunately happens that not a few destitute American seamen are thrown upon Portuguese shores, a repetition of such demands must necessarily lead to a heavy tax upon consuls, and put both consuls and seamen to great inconvenience. It has been shown above that the laws of Portugal discountenance the collection of fees in such cases, and in view of the known humanity and justice of His Majesty's government, I

am confident that if the facts of this case shall be found to be as I have stated them, a result about which I entertain no doubt, my requests in the premises, that the fees exacted of Mr. Ivens may be returned, and the charge for such permits to be discontinued in St. Michaels, will meet with prompt and ready compliance.

I avail myself of this occasion to renew to your excellency the assurances of my highest consideration.

BENJAMIN MORAN.

His Excellency JOÃO DE ANDRADE CORVO,
&c., &c., &c.

[Inclosure 2 in No. 95.—Translation.]

Mr. Corvo to Mr. Diman.

MINISTRY OF FOREIGN AFFAIRS—POLITICAL BUREAU.

In answer to the note which Mr. Benjamin Moran addressed me on the 15th June last, desiring the re-imbursement of a sum of money which had been unduly paid to the civil governor at Ponta Delgada as fees and stamps for nine passports conferred on indigents, I beg to inform your excellency that the minister of the kingdom has communicated with me to that effect on the 21st instant.

His excellency informs me that the civil governor of that district, who was questioned on the subject, regrets in his answer this error, due no doubt to the fact that the consular agent had not declared, when demanding the passports, the state of poverty of the American citizens to whom they were destined, which was since asserted.

The minister of the kingdom states, moreover, that the above-mentioned civil governor is prepared to reimburse the amount of the said fees, (7,200 reis insular money,) and that on the same day he notified the minister of finance that the delegate of the treasury should be instructed to make restitution of the stamp money, amounting to 9,045 reis.

God keep your excellency.

Foreign Office, 29 July, 1876.

JOÃO DE ANDRADE CORVO.

H. W. DIMAN, Esq.,
&c., &c., &c.

[Inclosure 3 in No. 95.]

Mr. Moran to Mr. Corvo.

LEGATION OF THE UNITED STATES,
Lisbon, October 27, 1876.

SIR: Referring to my note of the 15th of June last, relative to the collection of fees from the United States consular agent by the civil governor of Ponta Delegada for passports for nine destitute American seamen, and to your excellency's reply to Mr. Diman of the 29th of July, informing this legation that the fees had been exacted through a misunderstanding of the facts of the case, and that instructions had been given to re-imburse the amount of the said fees, I have to express my satisfaction with this action of His Most Faithful Majesty's government, and shall have pleasure in forwarding copies of the correspondence in the case to Washington for the information of my Government.

Renewing the assurances of my highest consideration, I have the honor to be your excellency's most obedient servant,

BENJAMIN MORAN.

His Excellency JOÃO DE ANDRADE CORVO,
&c., &c., &c.

RUSSIA.

No. 236.

Mr. Boker to Mr. Fish.

No. 57.] LEGATION OF THE UNITED STATES,
St. Petersburg, February 25, 1876. (Received March 20.)

SIR: I have the honor to inclose to you herewith, marked 1, two copies of the budget of the Russian Empire for the year 1876, according to which a surplus of receipts is expected amounting to 86,170 rubles.

The expectation is that the receipts, excluding those from special resources devoted to the construction of railways and ports, will be about 559,000,000 rubles, or 8,000,000 more than were anticipated for 1875. In 1874, the account for which has been made up, they actually amounted to more than 557,000,000 rubles.

The ordinary expenses, exclusive of the temporary extraordinary expenses for railways, which always correspond to the sum of the special resources stated on the other side of the budget, are expected to be 559,000,000 rubles, while for 1875 they were expected to be nearly 548,000,000 rubles. In 1874 these expenses actually amounted to 543,000,000 rubles, so that there was a surplus of more than 14,000,000 rubles, whereas one of 3,000,000 only had been anticipated.

The budget for 1876 seems to have been made up with more care than usual, and with an evident anxiety to limit the unforeseen expenses, and not to exaggerate the anticipated income. * * * * * * *

I have, &c.,

GEORGE H. BOKER.

No. 237.

Mr. Boker to Mr. Fish.

No. 73.] LEGATION OF THE UNITED STATES,
St. Petersburg, April 21, 1876. (Received May 11.)

SIR: I have the honor to inclose to you herewith, marked 1, two copies of an extract from the "*Journal de St. Petersburg*," together with a translation, marked 2, containing a short account of the country of Khokand, which has been recently added to the Russian possessions in Central Asia.

During the past year, the strife which had always existed between the settled and non-settled inhabitants, broke out into such a storm that the Khan Khudoyar was obliged to flee for his life across the Russian frontier. Khudoyar's son was then placed upon the throne, but he, too, was unable to maintain his position, and had soon to follow his father and seek Russian protection. The rebels attacked the Russians for befriending the fugitive Khans. A number of encounters took place, and in the end the Russian troops occupied the city of Khokand—a necessity which had long been foreseen at St. Petersburg; and as the only effectual means of restoring order, the province was subsequently annexed to Russia, under its ancient name of Fergana, and Major-General Skobeleff was appointed governor.

It is supposed that, with the annexation of Khokand, the advance of Russian power eastward in Central Asia will be terminated, at least for the present, as a natural boundary now seems to have been reached which will secure the frontier against the incursions of the hostile nomadic tribes.

I have, &c.,

GEORGE H. BOKER.

[Inclosure.—Translation.]

[Extract from the "*Journal de St. Petersburg*" of the 2d–14th April, 1876.]

The territory of the late Khanate of Khokand, which now forms part of the general government of Turkistan, is bounded on the north and west by the province of the Syr Darya, on the east by that of Semiretchinsk, and on the south by the possessions of Kashgar, the plains of Pamyr, Karategin, and the Zaraf shan circle. The configuration of its soil is that of a depression surrounded on all sides by the Tian-shan Mountains, except on the west, where these mountains sink and open a way for the Syr Darya into the vast valley of the western Turkistan. The late Khanate contains, according to a planimetric survey, more than 1,300 square miles of surface; but the valley of Fergana hardly represents more than a fifth of this extent, the rest being occupied by the mountains. Among the latter the most elevated are the Alai, which, according to the calculation of Mr. Fedtchenko, rise to the absolute height of 18,000 feet, while several of their summits reach an altitude of 25,000 feet.

The valley of Fergana is traversed from the northeast to the southwest by the Syr Darya, which is formed by the confluence of two rivers, the Naryn and the Kara Darya. It is to this course of water, and to a great number of torrents which descend from the mountains in the valley of the Syr, and the most of which do not even reach the river, that the late Khanate owes the remarkable fertility of its soil. Distributed by numerous irrigation canals their waters fertilize the cultivated grounds, which extend to the foot of the mountains.

Like that of all the countries of Central Asia, the population of Fergana is partly settled and partly nomadic. To the settled part of the population belong the Tadjiks, aboriginal inhabitants of the country and of Aryan race, who are gradually losing the purity of their type by intermixing with the Uzbeks, a Turkish race, which spread itself over Central Asia in the sixteenth century; the inhabitants of the towns and villages bear the name of Sarts, whether Tadjiks or Uzbeks; and there are to be found among them a small number of Hindoos, Afghans, and Jews. The nomadic population is composed of Kirghiz and Kiptchaks, most of whom lead a half-settled life, establishing their *auls* or encampments in the neighborhood of the towns and villages.

The settled population is grouped principally on the left bank of the Syr, where are situated the most important towns. The south of the valley of this river is, perhaps, the most populated region of Central Asia; it presents to the traveler an unbroken series of cultivated fields and magnificent gardens, among which are to be seen villages and farms scattered here and there. The country on the north of the Syr and Kara Darya is occupied principally by nomads, who pass the winters at the foot of the mountains.

The number of the population of the province of Fergana can only be stated approximatively; according to information furnished by the Khan's administration, it may be estimated at 192,000 families, (132,000 settled and 60,000 nomads;) probably, counting five persons as the average number in each family, 960,000 souls. The new province is, therefore, the most populated of all those which constitute the general government of Turkistan.

The town of Khokand counts from 40,000 to 50,000 inhabitants. The principal towns, after the capital, are Marghilan, Andijan, and Namangan, each of which has more than 10,000 inhabitants.

Under the rule of the Khan, the territory of Fergana was divided, for the purposes of administration, into five bekats, from among which the taxes were collected. The principal taxes were the *heradj*, which was a deduction in kind from the production of the fields; the *tanap*, a tax paid in money on the cultivation of the lowlands and the garden; the *ziaket*, received on the imports and on cattle; a bazaar tax or a license to sell in the market, a toll at the river, a tax on salt, &c. These taxes and a great many others, established for the purpose of increasing the personal fortune of the Khan, weighed heavily upon the population. Altogether they produced from 2,200,000 to 2,500,000 rubles per year.

The rich soil of Fergana produces an abundance of wheat, rice, millet, barley, sorghum, cotton, tobacco, madder, and several other coloring plants, magnificent vines, mulberry trees on which are raised the most valued silk-worms in Central Asia, and a

great number of fruits and vegetables. These natural riches, together with an admirable climate, have long caused the valley of Fergana to be considered one of the most fortune-favored countries of the East.

Industry is not yet much developed there; the principal products are silk-stuffs and coarse carpets.

The name Fergana, which has been given to the new province, is that by which Khokand was anciently known. This name is found mentioned in its present form in Arabian manuscripts of the eighth and ninth centuries, but it was even known in the fourth century, in a garbled transcription by the Chinese. By its etymology it belongs to the Iranian languages, closely related to Persian, and very probably means "country of passage," (fra-gana,) or "passage," (from Transoxonia to Eastern Turkistan.)

No. 238.

Mr. Atkinson to Mr. Fish.

No. 29.] LEGATION OF THE UNITED STATES,
St. Petersburg, July 26, 1876. (Received August 14.)

SIR: I have the honor to inform you that a convention has just been concluded at Warsaw, between Russia and Germany, for the construction of a railway to unite Warsaw with Marienburg. The right of laying down and working the line has been granted by their respective governments to a Russian and a German company, who are to act in concert with regard to uniformity in regulating the traffic, subject, however, to the usual governmental supervision in each country. The point at which it will intersect the frontier will be near Mlava or Mlavka on the Russian side, whence it will run northwest to Marienburg. This line would seem to promise some commercial importance, as it will bring the port of Danzig and that part of the German coast into more direct communication with the Russian Empire.

I have, &c.,

HOFFMAN ATKINSON.

No. 239.

Mr. Shishkin to Mr. Cadwalader.

[Translation.]

No. 139.] WASHINGTON, *July* 6, 1876. (Received July 6.)

Mr. ASSISTANT SECRETARY: The mail of this morning has just put me in possession of a letter of congratulation, which His Majesty the Emperor addresses to His Excellency the President of the United States on the occasion of the centennial anniversary of the independence of this country.

The tardy reception of the message of my august master having deprived me of the satisfaction of personally putting it in the hands of His Excellency General Grant on the 4th of July, I hasten to forward under cover to you, Mr. Assistant Secretary of State, a copy for your information, begging you at the same time to be kind enough to send the letter of His Majesty to its distinguished destination, and to offer on that occasion to the President my personal congratulations on the occasion of the glorious anniversary which has just been celebrated by the American people.

I seize this occasion, Mr. Assistant Secretary, to beg you to accept the assurance of my very high consideration.

SHISHKIN.

No. 240.

The Emperor of Russia to the President.

[Translation.]

Mr. PRESIDENT: At the moment when the people of the United States celebrate the centennial period of their national existence, I desire to express to you the sentiments with which I take part in this celebration. The people of the United States may contemplate with pride the immense progress which their energy has achieved within the period of a century. I especially rejoice that, during this centennial period, the friendly relations of our respective countries have never suffered interruption, but, on the contrary, have made themselves manifest by proofs of mutual good will.

I, therefore, cordially congratulate the American people in the person of their President, and I pray that the friendship of the two countries may increase with their prosperity.

I embrace this occasion to offer to you, at the same time, the assurance of my sincere esteem and of my high consideration.

Ems, June $\frac{5}{17}$, 1876.

ALEXANDER.

His Excellency General GRANT.

No. 241.

The President to the Emperor of Russia.

GREAT AND GOOD FRIEND: I was highly pleased to receive from your Majesty the letter of congratulation which you addressed to me on the 17th of June, in anticipation of the then approaching celebration of the Declaration of Independence of the United States.

The cordial relations of friendship and national regard referred to by your Majesty as having prevailed in so marked a degree between the two countries during the century just closed are also adverted to on my part with feelings of keen satisfaction, and I trust that they may continue unimpaired throughout the century upon which we have just entered.

With the hope that, during the residue of your Majesty's reign, the progress of the countries which are subject to your domain may be as signal as it has hitherto been in all that contributes to the happiness and prosperity of a people, I pray the Almighty to have your Majesty in His safe and holy keeping.

Your good friend,

U. S. GRANT.

By the President:
HAMILTON FISH,
Secretary of State.

WASHINGTON, *July* 28, 1876.

SPAIN.

No. 242.

Mr. Cushing to Mr. Fish.

No. 697.] UNITED STATES LEGATION,
Madrid, December 2, 1875. (Received December 22.)

SIR: The civil war existing in Spain turns partly on a dispute of dynasty and partly on one of principles of government. The dynastic contest involves questions of law only, none of fact. According to the ancient laws of Spain and the practice from the time of the formation of the monarchies of Castile and Leon, (but not Aragon,) females succeeded to the crown in default of direct male succession and in preference to collaterals of the male sex.

Such also was, and remains to this day, the law of succession as to property and as to rank, including grandeeship and nobiliary titles. Some of the most distinguished sovereigns of Castile and Leon had been queens, such as Berenguela, and the first Isabel, by whose marriage with Fernando of Aragon the different kingdoms were connected together to constitute Spain. And the competitor of Isabel was a female, Doña Juana, surnamed La Beltraneja, the putative daughter of her brother and predecessor, Don Enrique IV.

On the death of Fernando and Isabel, the crown passed without opposition to their daughter Juana, and through her to her son, Charles I, (V of Germany.) Regular descent through direct male heirs followed in the persons of Philip II, III, and IV, and Charles II.

On the approach of the death of Charles II without issue, right of succession through females was asserted by each of the six pretenders to the crown: the Dauphin of France, the Prince Elector of Bavaria, the Duke of Orleans, the Duke of Savoy, the King of Portugal, and the Emperor of Germany.

Louis XIV of France married Maria Teresa, the eldest daughter of Philip IV and sister of Charles II, and the Dauphin was the right heir of Charles II, according to the public law of Castile, he being nearest in kinship to Charles II.

The Elector of Bavaria claimed through his mother, the second daughter of Philip IV and sister of the mother of the Dauphin; Leopold, of Austria, through his mother, daughter of Philip III; the Duke of Orleans through his mother, Anne, of Austria, wife of Louis XII and eldest daughter of Philip III; Victor Amedeo, of Savoy, as representing Catalina, daughter of Philip II; and the King of Portugal, as descended from a younger daughter of Isabel the Catholic. According to the rule of seeking the next of kin to the last possessor, the claim of the Dauphin was clearly the best, that of Victor Amedeo the next best, and next that of Leopold of Austria.

But political considerations narrowed down the question to the Dauphin and the Emperor Leopold, each of whom, being excluded by treaties which forbade the union of their respective countries with Spain, evaded this difficulty by renouncing in favor of sons; and thereupon the testament of Charles II decided the question against Charles of Austria, and in favor of Philip of Anjou.

Spain was divided in opinion, Castile and its dependencies favoring Philip; Aragon and its dependencies, Charles; but after a long and

bloody war between all the chief European powers, fought in Spain herself and constituting one of the epochs of her decadence, France prevailed to make Philip of Anjou Philip V of Spain.

During the very time when the plenipotentiaries of Utrecht were occupied in the negotiations which terminated the war of succession, (1713,) Philip V was arranging in the Cortes of Madrid the succession of the crown so as to consummate the permanent separation of Spain and France. To this end he declared that in default of heirs of his descendants the crown shall devolve on the house of Savoy in representation of Doña Catalina, daughter of Philip II.

No other example exists in history of a disputed succession so involving a settled principle as in these incidents of the accession of Philip V.

All the competitors for the crown, including Philip himself, claimed through females, and that line of descent was provided for the possible contingency of the failure of heirs of his body.

Nevertheless one of his earliest acts was to repeal the laws of Spain respecting succession and to introduce instead the Salic law of France, in the form of an *auto acordado* or prerogative act, adopted in such form in consequence of the opposition of his counselors and of the Cortes, which act concludes thus: "I command that from now henceforth the succession in these kingdoms and their adjuncts shall be regulated in the following manner: (*follows the text of the law,*) notwithstanding the law of the Partida and other laws, statutes, customs, and styles and capitulations, or other dispositions whatever, of the kings my predecessors to the contrary, the which I derogate and annul in everything contrary to this law, leaving in force and vigor for the rest, that *so is my will.*"—(*Novisima Recopilacion*, liii, tit. I, l. 5.)

No change in this respect occurred, nor did any question arise during the residue of the reign of Philip V, or in that of either of his three sons who succeeded, Luis, Fernando VI, and Charles III, nor until the reign of the latter's son, Charles IV.

But with the first year of the reign of this King (1789) the Cortes assembled at Madrid petitioned him to repeal the *auto acordado* of Philip V, and to restore the immemorial custom of Castile, which admitted the succession of females to the crown, in conformity with the law of the Partidas.

The petition was unanimous on the part of the Cortes, and the King assented and ordered the preparation accordingly of a *pragmatic sanction* (an old name for laws of repeal) to that effect, but ordered further that the whole proceeding, and the pragmatic sanction itself, should remain secret and confidential until such time as the Crown might see fit, in its wisdom, to give publicity to the same. That time arrived in the reign of Ferdinand VII.

The Cortes of Cadiz inserted in the constitution framed by them (1812) the substance of the pragmatic sanction, but Ferdinand rejected that constitution, or yielded only forced acquiescence to it during a brief interval, so that it can scarcely be regarded as the fixed organic law of Spain; but on the occasion of his marriage with Maria Cristina, Ferdinand, having had no issue by his previous marriages, and the Queen being pregnant, he, in the uncertainty whether the issue would be male or female, determined to promulgate the pragmatic sanction of Charles IV, (March 29, 1830.) The effect of this act was to produce divisions in Spain between the partisans of temperate and liberal monarchy and the extremists in monarchism and religion, the former rallying around Maria Cristina, who influenced the King in the same direction, and the latter around Don Carlos, the eldest brother of Ferdinand.

In fact the Queen gave birth to a daughter, (October 10, 1830,) who was named Maria Isabel Louisa and proclaimed Princesa de Asturias, or heir apparent to the crown; and she afterward had another daughter, Maria Louisa Fernanda, now the wife of the Duke of Montpensier.

But Ferdinand VII was now approaching his end. Don Carlos with his partisans had resisted and done all in their power to prevent the publication and ratification of the pragmatic sanction, and on the death of his brother he assumed the title of Don Carlos V, in opposition to his niece proclaimed Queen by the title of Isabel II, and his pretensions have been persisted in by his descendants, Charles VI and VII.

Such is the *dynastic* question. Its elements of *law* are the plainest possible.

Had Philip V right and power to repeal, by his *anto acordado*, the immemorial national custom of Castile authenticated in the statute law of the Partidas? If that be admitted, then it cannot be denied that *a fortiori* his grandson Charles IV had right and power to repeal the *auto acordado* and, by his pragmatic sanction, to revive and restore the pre-existing law of Spain. In this a great majority of Spaniards of all classes and the most accredited jurists of Europe are of accord, the more so, seeing that the succession of females is the common law of the country, and of most other countries, in opposition to the peculiar Salic law of France; and accordingly Isabel and her son Alfonso have enjoyed the recognition of all foreign powers, while none have recognized Don Carlos.

The political question is a more complex one, but may be disposed of by a few observations.

The immediate political consequence of the devolution of the crown on Isabel was the breaking out of civil war in Spain, which raged with unabated fury during more than eight years of her reign, and was renewed with equal fury on her dethronement.

I have touched some parts of the subject in previous dispatches. It will suffice briefly to resume the elements of the matter at this time.

The royal policy of Ferdinand had been absolutism in its most exaggerated form. He commenced by exiling and otherwise persecuting the members and principal partisans of the Cortes of Cadiz. When, subsequently, after having been compelled by revolution to submit for a while to that constitution, and on being delivered therefrom by the armed intervention of France, he signalized the resumption of absolute power by still more violent persecution of the liberal party, condemning to death a multitude of its conspicuous members and forcing into exile a still larger number, including many of the best and most illustrious men of Spain.

When the infant Isabel acceded to the throne, with her mother Maria Cristina as regent, the latter, in order to defend herself against Don Carlos, reversed the policy of Ferdinand, issued a proclamation of general amnesty, and rallied around the throne all the liberal interests of Spain.

Doña Isabel and Don Carlos became at once the respective representatives, the first of liberal or constitutional Spain, and the second of illiberal or absolutist Spain.

While the war had its principal seat in the northern, northeastern, and eastern provinces of Spain, where absolutist opinion was most intense, it seemed sometimes to scatter itself over the whole peninsula. Its stronghold, however, then as now, has been Navarre and the Basque provinces. The Basques are aliens in race, in language, and in laws to the rest of Spain. They enter somewhat into the population of Navarre,

which, besides, is the latest and least reconciled of all the old independent kingdoms, aggregated, rather than united, under the sceptre of Charles I.

The whole country is of substantially the same character, a conglomeration of mountains, well wooded, rich in minerals, well cultivated in the valleys, and with abundant means of self-sustenance, especially cattle, maize, and fruits. The climate is agreeable in summer, although wet; and it is cold, with much snow, in the winter. The population is the hardiest in physical constitution, and the most enduring and tenacious of all Spain; intensely bigoted in religion; absolutist in politics; devotedly attached to their local privileges, by which they are exempt from the general tax laws and the conscription which press so heavily on the rest of the nation; and they are selfishly perverse, not only in pretending to enjoy all the privileges of Spanish nationality, without bearing any of its burdens, but in undertaking to impose by force their bigotry and absolutism on all Spain.

Such are the elements at hand and ready for use which have enabled the family of Don Carlos for two periods of eight years each to baffle and defy the successive governments of Spain.

During the second period, now running, the Carlists have received powerful aid in money, arms, equipments, and munitions from the ultra Catholics of the rest of Europe, especially those of Great Britain and Ireland, France, Belgium, Austria, and Germany.

The suggestion in my No. 574 of October 4 on the question of *belligerence*, as respects the Vasco Navarrese and the Cubans, assumed that to concede it to the latter without conceding it to the former, while an act of semi-hostility in either case, would have less justification in fact as applied to the Cubans, because the insurrection of the Vasco Navarrese, unlike that of the Cubans, is territorial in its character, accessible from abroad, and with organized local institutions, legislative, administrative, and judicial, and established seats of governmental action, after the manner of independent states.

For the rest, my No. 663 of the 18th ultimo will have advised you of the recent change of front on the part of Don Carlos. Theretofore he and his partisans had been in relation with the Cubans in Paris and New York. His letter to Don Alfonso dissolved that connection and drew upon him the resentment of the Cubans.

A Spaniard of much political and social distinction here, who is personally acquainted with the United States and with Cuba, and who, while in high office, formerly manifested good-will toward us, is of opinion that leading members of the Cuban Junta are animated, not with desire to promote the interests of Cuba, but simply with personal hatred of Spain. He says that one of them is a Venezuelan, not a Cuban, and that the two principal *cabezillas* in the field are Dominican mulattos, ex-officers of the Spanish expedition to Santo Domingo, angered by what they regard as personal ill-treatment on the part of the Spanish government.

Much of the conduct of Don Carlos indicates that, despairing of success in his aspirations, he also is yielding more or less to similar sentiments of mere personal spite and resentfulness in regard to Spain.

I have, &c.,

C. CUSHING.

No. 243.

Mr. Cushing to Mr. Fish.

No. 991.] LEGATION OF THE UNITED STATES,
Madrid, June 19, 1876. (Received July 6.)

SIR: The proposed article of the new constitution, legalizing religious toleration in Spain, has passed the senate by an unexpectedly large majority of nearly three to one, after being earnestly and ably discussed on both sides, and, especially by its opponents, with even more zeal than was displayed in the congress.

The issue was reduced at last to a very narrow one, to wit, whether religious tolerance should exist by express letter of organic law or merely as a fact; it being proved by the ministers that the Papal See desisted from opposition to the fact, and struggled only to exclude the recognition of it from the constitution.

The minister of state, (Mr. Calderon y Collantes;) the chief justice, (D. Cirilo Alvarez;) the president of the council, (Mr. Cánovas del Castillo,) and the Conde de Casa Valencia, (Mr. Alcalá Galiano,) distinguished themselves in support of the article. Of many speeches on the other side, the most important was that of the bishop of Salamanca, (Sr. Martinez Izquierdo.)

The residue of the constitution will be definitively adopted in the course of a few days, with perhaps some secondary amendments. I shall then transmit a copy to the Department.

I have, &c.,

C. CUSHING.

No. 244.

Mr. Cushing to Mr. Fish.

No. 1026.] LEGATION OF THE UNITED STATES,
Madrid, July 8, 1876. (Received July 26.)

SIR: The Cortes have completed the new constitution of Spain, copy of which is annexed.

Its prominent features are: Hereditary monarchy in the person and family of Don Alfonso XII, with a legislative assembly of two branches, a senate and a popular chamber; the latter founded on general suffrage, to be made more or less restricted by a law of elections; the former composed of members, one-half by right (grandees, archbishops, captains-general and admirals, and superior judicial or executive officers) or by nomination of the King, and the other half by election in the second degree out of certain defined categories of persons who have held high places in civil, diplomatic, military, or naval service, in the church, or in the literary and scientific corporations.

The much-talked-of religious article of the constitution is in the following words:

ART. 11. The Catholic Apostolic Roman religion is that of the state. The nation obliges itself to maintain the worship and its ministers.

No person shall be molested in the territory of Spain for his religious opinions, nor for the exercise of his particular worship, saving the respect due to Christian morality.

Nevertheless, no other ceremonies nor manifestations in public will be permitted than those of the religion of the state.

Some question as to the full force of the last clause has been raised in the Cortes. The words of the original are:

No se permitirán, sin embargo, otras ceremonias ni manifestaciones públicas que las de la religion del estado.

In this sentence, does the adjective "publicas" serve to qualify the two preceding substantives, "ceremonias" and "manifestaciones," or only the second, "manifestaciones?" The ministers profess and maintain the broader and better signification.

I think such is the true grammatical construction of the phrase. I have so rendered the word "publicas," however, as to leave the same possible room of doubt to subsist in the English.

Reserved and apparently innocent as this provision of toleration is, it was opposed with vehement zeal in both houses; and, although it passed by a large majority, it seems to be regarded with much uneasiness and discontent in a considerable part of the country, especially by the ladies of Spain, and it remains to be seen how it will be made acceptable to the Papal See.

The constitution and the monarchy of Don Alfonso XII are indissolubly connected together. If he falls, that falls. * * *

It is but just to say that, in its general provisions, the new constitution is a very reasonable one, containing all which is good and omitting much which is bad in previous constitutions, and corresponding in theory to the existing constitutions of the other monarchical governments of Europe.

Its strength and its weakness consist in its being a fabric of compromise, aiming to avoid the extremes of absolutism and of demagogy, standing of course on the uneasy basis of a coalition, in the presence of the active enmity of all the more positive convictions at both extremities, with sufficient generality of language and flexibility of provisions to allow ample room for the healthful play of parties, but also for their factiousness, within the premises of the fundamental idea of the monarchy of Don Alfonso.

So long as the ministers shall succeed in holding in equilibrium the contending educated classes, their situation will continue to be a hopeful one, provided they have time to enter on the material improvement of the whole nation by wise measures of internal administration.

Meanwhile there is continual talk of revolution, which would be quite unworthy of attention if the people of Spain had learned to distinguish between oscillations of party ascendency and radical changes of government.

But, for want of consideration in this respect heretofore, situations apparently the most firm have yielded unexpectedly to a trivial combat of troops at Vicalvaro or Alcolea, or to a petty garrison mutiny at San Ildefonso or Madrid; and political institutions have suddenly fallen to the ground without even a combat or a mutiny, as in the recent cases of Castelar and of Serrano. Such things, unfortunately, are supposed to be always possible in Spain. That is to say, the danger lies deep in the national character and political education of the people of Spain. While she makes loud *professions* of "españolismo," that is, intense nationalism of sentiment, and while, indeed, she truly manifests this feeling in sundry ways, yet she is under singular mental subjection to France, of which she ought to be most jealous, since in her intellectual culture and in her material, social, and political interests, she has suffered more injury in all ages from the latter than from any other state of Europe.

Thus at the very period when Spain was overrun and given up to devastation by the armies of Napoleon, which constituted the patent demonstration of the mischievous character and tendencies of the French revolution—its alternate anarchy and despotism at home and its invasive intermeddling abroad—her Cortes were so infatuated with its

peculiar ideas as to proceed, in spite of the remonstrances of the wisest members, to adopt whatever there was of evil in those ideas and incorporate the same into the constitution of Cadiz.

That was a fatal step, from the consequences of which Spain has not yet been able to recover, and may never. From that day to this, in Spain as in France, constitutions, written or unwritten, one succeeding the other by violent transition, have too often been the act of desperate factions, without any firm root in the general convictions of the country, and especially destitute of that practical adaptation to existing facts, which alone can impart stability to constitutions, as we see them in the United States and Great Britain.

The influence of French ideas in Spain, but of English in Portugal, is the only plausible explanation yet given of the political tranquillity of the Portuguese and the contrasted turbulence of the Spaniards, both in Europe and America. And it is one of the titles to esteem of the new constitution and of the policy of the present ministers, to endeavor to naturalize in Spain, so far as the circumstances of the country will admit, the governmental ideas and practices of Great Britain.

This purpose is apparent in the facts; it is professed by the ministers in debate; and it is upheld by judicious friends of theirs in the Cortes, such as the Conde de Casa Valencia.

In observing the instability of constitutions and governments on the part of France and Spain, and the absurdities which they commit in this respect, one is prone to wonder how it is that the resultant of so many wise men is frequently but a concrete folly, if such an expression may be applied to the ever-changing and mostly impracticable political institutions, which come and go spasmodically in the midst of civil convulsions and foreign wars, in Spain as in France.

Hence, in Spain hitherto, of the many constitutions she has had since the disastrous blunder of Cadiz, some have been still-born, some speedily superseded by a new one, and the rest kept nominally alive only by arbitrary *suspensions*, that is, acts of legislative usurpation, depriving the constitution of actual vitality. For the Spaniards, like the French, are quite regardless of the distinction between *constituent* assemblies and *legislative* ones; the same body acts in both capacities; and every legislative assembly arrogates at will power to suspend the supreme constitution of the state.

Such is the deplorable confusion of mind prevailing in this respect—or shall I say the bad faith?—that the very statesmen who framed the last previous constitution, that of 1869, on the basis of a monarchy with two chambers, cannot see that when, on the abdication of King Amadeo, the two chambers proceeded to merge themselves into one—to abolish monarchy—to proclaim a republic—to substitute a committee of citizens in place of all government—to proceed thereafter to rule with one chamber only, or rather with none at all, and, by successive dictatorships, to try a series of wild experiments in constitutions, one after the other—these men cannot, or will not, see that in so doing they tore in pieces and trampled under foot that constitution.

When such ignorance or disregard of all the essential conditions of constitutionalism exists, of what avail is a mere paper constitution, though it be the perfection of human wisdom, where candidates for place and power stand ready to recur to revolutionary force to gratify their impatient ambition; or where a numerous military officiality have been trained in the fatal practice of *pronunciamientos;* or where every little knot of crazy political visionaries, instead of contenting itself to try its delusions in some remote corner of the country, as with us, and

render itself ridiculous in humble obscurity, presumptuously comes to the front, and aspires to impose itself, by local insurrections, on the whole nation; or where the most passionate and violent antagonisms continue to exist in regard to the very elementary principles of government? And yet all these things are the recognized conditions of political life in Spain.

Hence, in despite of the good qualities of the new constitution, and of the conservative liberal principles which it embodies, there is frequent expression around me of doubts as to its absolute permanence; unless, indeed, the Spaniards should be diverted from suicidal domestic dissensions by the *alterative* influence of the great events impending in Europe.

No immediate cause of strain, however, is distinctly visible at present, nor is there any in prospect, except, possibly, when the large force, now being recruited or drawn by lot for dispatch to Cuba, shall be accumulated for that purpose at Santander and Cadiz.

I have, &c.,

C. CUSHING.

No. 245.

Mr. Cushing to Mr. Fish.

No. 1071.] LEGATION OF THE UNITED STATES,
San Ildefonso, August 7, 1876. (Received August 24.)

SIR: I transmitted to you, with my No. 1045, copy of a pamphlet recently republished in Madrid, in the Spanish language (there have been previous editions in German as well as in Italian), by the Italian minister here, Count Greppi, on the question of the right of certain foreign powers to intervene in the election of popes. The pamphlet has attracted considerable attention in Madrid, in view of the extreme old age and alleged precariousness of the health of Pio Nono, and has afforded occasion to the Spanish government to assert its intention to revive and maintain, so far as it is concerned, the authority which Spain has exercised in other times, of the *exclusiva*, as it is called, that is, official opposition, to the election of any unacceptable candidate for the papacy. Considering the uncertainty of the present relations of Spain to the See of Rome, and especially the pending negotiations for the modification of the existing *concordat*, in order to reconcile the same with the religious liberty accorded by the new constitution, this purpose of the government may have important consequences; for if Spain insists on her right of exclusion, so, we may be sure, will some other Catholic governments. I therefore inclose herewith translation of an article on the subject from the *Diario Español*, which would not speak so absolutely as it does without authority. As the question is liable at any moment to become a European one and greatly to agitate the Catholics in the United States, it has seemed to me that you might desire to have early information on the subject.

I have, &c.,

C. CUSHING.

[Inclosure.—Translation.]

Editorial article on the election of popes, from El Diario Español, Madrid, August 4, 1876.

The not very satisfactory state of health in which His Holiness found himself a few days ago gave occasion to some foreign newspapers to occupy themselves with the intentions of certain powers in the melancholy event of the designation of a new pontiff having to be effected. As it has been, it is, and it cannot do otherwise than happen, when a question of such transcendental importance is under discussion, the press, which represents, first of all, the interests and the policy of the Vatican, has taken part in the discussion thus set on foot, advocating above all that, in the occurrence of such an event, no one shall interpose obstacles to the will of the cardinals. The journals to which we allude have nevertheless done more than this, by giving the greatest publicity to a certain Italian pamphlet devoted to examining the matter, and counseling that all the world should conform to what is written therein, by reason of its being the true Catholic doctrine, obligatory upon all the faithful. This advice or counsel, by reason, on the one hand, of the manner in which the work in question analyzes the attitude which should be assumed by the states of Europe in the election of the successor of Pius IX, and, on the other, the way in which it is published, has caused the belief that the pamphlet referred to had a high origin, and that it was invested with greater authority than was generally believed on its appearance. Be this the truth or no, it seems proper to insert the following lines which it devotes to the exercise of the *exclusiva*, a right which, there is no need of reminding the reader, is enjoyed by Spain, France, and Austria in the case of the pontifical elections: "As soon as the actual Pope," says the part of the pamphlet to which we refer, "shall, because of the inexorable law to which all of us are subject, abandon this transitory life, the cardinalic family will be assembled in conclave in order to elect his successor, and, without fears of being disturbed in any possible manner, it will freely realize its high mission. Kings, under the influence of antiquated traditions, *will not resort anew to the exercise of the exclusiva* in order to reject or suggest such or such a candidate, especially as the motives do not now exist which in former times justified its employment. Italy, jealous of the honor which is incumbent upon her to shelter the papacy, will watch over the conclave, confiding in the good judgment of the members of which it is composed in order to promise to herself anew an election which shall give glory to the Church and peace to the civil powers." We do not know from whence the author of the paragraphs above transcribed can have deduced that kings will not recur to the exercise of that prerogative, an asseveration which we at once qualify as inexact, adding that in no manner will our Crown forego the rights which attach to it. The exercise of that power has not been kept up exclusively because of the existence of the temporal power of the popes, but because of other causes which it is foreign to the case to recall to mind, and upon which in these our days no manner of discussion has yet turned; but if, under this point of view, the right of the *exclusiva* will not be renounced, neither can be renounced the circumstances of these latter times, and the reations which the several states at present maintain with the Vatican render that prerogative needful and expedient for the melancholy contingency we have indicated, and in which its exercise could not be dispensed with.

No. 246.

Mr. Adee to Mr. Fish.

No. 252.] LEGATION OF THE UNITED STATES,
Madrid, August 30, 1876. (Received September 16.)

SIR: The religious question, raised by the action of the subgovernor of Minorca in prohibiting advertisements or notices of the movements of the evangelical sects in the journals of Mahon, * * * has attained such a degree of bitterness here as to make it probable that like heated versions of the affair will be current in the United States; and I therefore deem it not amiss to communicate to you such explanations and details as have been made public here in justification of the course of the local authority.

It would seem from these explanations that the repressive measure in question was not the result of a general determination of the government or due to the reactionary fanaticism of the subgovernor, as was

alleged, but was, as I conjectured, adopted simply as a local measure of public order.

It is stated that in Mahon the number of dissidents from the Catholic faith is relatively large; that they are incautious and obtrusive in the assertion of their faith and the forwardness of their propaganda; that public feeling, already running high, was in danger of being still further excited by the tenor of the advertisements inserted in the journals; and that the subgovernor, in the interest of the preservation of tranquillity, interposed his authority to put a stop to the danger.

The government has approved the course of the subgovernor, without, however, committing itself thereby to the adoption of his interpretation of the eleventh article of the constitution as general rule for all Spain.

I think that, in the discussion of this vexed question here—as may happen also in the discussion of it in foreign countries—the tendency is to overlook the fact that what the framers of the constitution contemplated, and in effect conceded in its eleventh article, was the simple, naked fact of *toleration*, not sanction or neutrality—with respect not only to the faith of the individual, but to the performance of acts of worship in common. The language of the article was nevertheless left broad enough to admit of toleration approaching to the bounds of *freedom* of worship where and when it could be safely done.

In other words, what was conferred was "immunity of the place of worship, of the cemetery, and of the book." All beyond that is simply a question of police *régime*, and, as such, subject to be affected by local causes.

Reasoning on these grounds, the supporters of the government assert that the publication at Mahon in the public and non-religious journals of advertisements calculated to exacerbate the feelings and excite the animosity of the majority of the inhabitants becomes, *in that locality and under those circumstances*, a "public manifestation" within the meaning of the eleventh article.

Of course the opponents of the government make ready reply that what is unconstitutional at Mahon cannot be constitutional at Madrid, and *vice versa*, calling on the government to adopt one general and inflexible standard of interpretation of the disputed article to apply to all Spain.

To which retort is made that circumstances alter cases; that an act, harmless *per se*, and, in present conditions, innocent and non-resultant in Madrid, can be, and is, malicious and dangerous in Menorca, (a statement which one of the newspapers brings down to general comprehension by a neat illustration of the varying effects of a lighted match let fall on a sand-bank, on a wood-pile, or on a powder-magazine;) and that the government is strong on the basis of preserving public order at any cost; and these assertions and counter-assertions bring the contestants to a dead lock and leave them there.

I have, &c.,

A. AUGUSTUS ADEE.

No. 247.

Mr. Adee to Mr. Fish.

No. 277.] LEGATION OF THE UNITED STATES,
Madrid, September 13, 1876. (Received October 2.)

SIR: The religious question in Spain, growing out of the recent acts of the local authority of Port Mahon, seems at length to have reached a defin-

itive point, so far as the action of the government of His Majesty is concerned, in the adoption of a general rule of conduct for the whole country. This result is, in my judgment, largely due to the querulous pertinacity of the opposition parties and press, in forcing on the government the issue, not of toleration, but of consistency and uniformity of rule.

As stated in my No. 252, this issue was one which the government seemed not unwilling to leave undetermined, making the question of extent of toleration or liberty in religious matters merely one of domestic and local police regulation, in the absence as yet of the awaited "organic law" of the Cortes.

But, while this could be safely done in Spain at large, certain districts, such as the southern mining regions and the Balearic Islands, presented special difficulties. The large foreign working population of the former offered but little ground of hinderance to almost complete religious liberty in comparison with the condition of things in the island of Menorca. In this latter place the reformed sects have carried on active propaganda for seven years past, adding to the already large foreign element a notable accession of native converts. No less than thirteen distinct mission establishments exist at Port Mahon, among schools and churches, all amply aided or supported by foreign contributions.

Feeling has in consequence run high for some time between the native Catholic element and the reformers. The chief ground of contest lay in the question of the schools. Each of the dissenting churches represented in that town had its well-supported scheme of free education—a propaganda which the active bishop of the diocese attempted to counteract by adverse movements in the public schools, introducing certain rites and ceremonies in them in the interest of the Catholic faith, and prescribing a course of doctrinal and religious studies. The result was the expulsion from the public school in March last of a boy of eight years, a son of the former consul of the United States in that city, for refusing to conform to the ritual or to learn the religious lessons assigned. This added in no small degree to the existing excitement, and an effort was made to raise the question to the dignity of an international issue; but as it was clear that the boy's attendance was voluntary on the part of his parents, that schools of his own denomination were open to him, and that in general freedom from religious instruction in the public schools does not exist, as matter of reciprocity, in the United States, the affair was dropped.

Soon another chance for conflict arose. The dissenting schools and churches were announced to the public by advertisements in the newspapers as well as by means of sign-boards and posters. On complaint being made, the subgovernor of Menorca, Don Antonio Castañeira, on the 19th ultimo, addressed an order to the director of the local journal, El Bien Publico, saying: "From and after to day you will abstain from printing and publishing announcements relative to the evangelical schools, which manifestations are positively prohibited by the constitution of the state."

It is to be noted that this now celebrated order, the origin of the wide-spread discussion of the past three weeks, applies, in terms, only to advertisements of evangelical schools, not of churches or acts of worship. Nevertheless, the discussion of the action of the subgovernor of Menorca has gone on in the apparent implication and admission that the principle involved covered all possible outward and public announcements of evangelical or anti-catholic character. And the gov-

ernment, having decided to approve the local measure taken by Sr. Castañeira, was at last constrained to accept the broad and strictly logical issue presented by its adversaries, and prohibit throughout Spain what it forbade at Port Mahon, and more too.

You will remember that, in Mr. Cushing's dispatch No. 955, of May 18, last, (pp. 4 and 5,) the question of "sign-boards" is alluded to as being, in his judgment, settled by the newly adopted eleventh article of the present constitution. Such is also the conclusion reached by the government of His Majesty.

There is not in Madrid, nor so far as I know in all Spain, any evangelical church edifice having the outward appearance of such. All are distinguished by sign-boards. In addition to these, one of the mission enterprises here has long had a conspicuous painted announcement on a blank wall in one of the most frequented thoroughfares of the capital.

The government accordingly ordered that these signs and advertisements should be removed. Verbal orders to this effect were first issued through the ward officers, and were promptly obeyed by the Spanish evangelical pastors. Two of the directors of missions here, one an American the other a Scotchman, declined to obey a mere verbal order, requesting written evidence in justification of their accession to the commands of the government. This was promptly granted. By order of the Conde de Toreno, acting minister of gobernacion in the absence of Mr. Romero y Robledo, the following notification was served upon the evangelical pastors or managers:

> The eleventh article of the constitution of the Spanish monarchy having declared that the Catholic apostolic Roman religion is that of the state; that in the Spanish territory no one shall be molested for his religious opinions, nor for the exercise of his respective worship, saving the respect due to Christian morality, not permitting, however, other ceremonies or manifestations in public than those of the religion of the state, I have deemed it convenient, confirming the verbal order which I communicated to you, to fix a fresh and definitive period of three days, wherein you shall make to disappear the inscriptions or placards which you have caused to be affixed in various places, relative to worship, teaching, or sale of religious books, and which announcements are not guaranteed by that constitutional precept.
>
> May God guard you many years, &c.

The American on receiving this notice promptly took down the unpretending sign-board which designated his place of worship. The other after much delay has partly expunged his many announcements with white paint, rendering the remaining portions more conspicuous than before. I understand that he proposes to appeal to his government to protect his sign-boards by diplomatic means, a course which the American will, I think, refrain from. So much for the question of sign-boards and public announcements.

Fresh matter of acrimonious debate has arisen however, in charges preferred through the press that the subgovernor of Menorca, in addition to his approved course in respect to evangelical advertisements, has gone still further, and ventured, through excess of religious fervor, on ground where it is doubtful if the government can follow him.

It is said that he has prohibited singing in the evangelical schools because it is audible from the street; that he entered a Methodist place of worship at 10 o'clock at night and commanded that the psalm then in progress should be stopped; and that he has forbidden Protestants to accompany the dead body of one of their number to the grave. The government has directed strict investigation of these charges, and if they are substantiated, it is likely that the subgovernor will be afforded an opportunity of leisurely repentance for his hasty zeal.

On the whole I think it is not to be regretted that this incident has been provoked in its present guise. This discreet and orderly obedience

to the commands of the superior powers exhibited by most of the mission enterprises certainly does not harm them; they lose nothing, as their places of meeting are known among the attendants, and "need no bush;" and if led to accept the consistent offer of the government and build special edifices for their own accommodation, the gain will be all on their side.

And as for the government, the matter has served to fix with considerable accuracy the present practical limits of religious toleration on the one hand and of reactionary and ultramontane efforts on the other. The ground comprised between these boundary lines is well described in the following article from last night's *Politica*, a journal which is understood to reflect the views of the president of the council of ministers in matters of moment like this:

> We have motives for repeating, under authoritative information, that the view of the government in the incident aroused during these days by reason of the occurrences at Mahon is as follows:
>
> The quiet accompaniment to the cemetery of the bodies of non-Catholics, without any ceremonies, cannot be other than allowable, and comes within the inviolability of the cemetery.
>
> The place of worship (*el templo*) is *absolutely* inviolable. The utmost limit which may be reached is to prevent the services (*culto*) from being visible from the street; and even in such cases the government would reserve to itself the investigation of the circumstances.
>
> Inscriptions and sign-boards are not permitted, according to the constitution and the declarations made in the Cortes.
>
> Schools do not enjoy the inviolability of the place of worship, and must be treated as all (*schools*) are, not permitting in them any religious meetings, nor anything to disturb the neighborhood.
>
> All this is in conformity with the constitution and with the liberal spirit which animates the government in the interpretation of the fundamental code.

These declarations cover the immunity of the "place of worship" and of the "cemetery" alluded to in my No. 252. That of the "book" is generally and acceptably understood to mean, as I take it, that the printing, publication, and circulation of evangelical books, tracts, or newspapers among those who seek them, is not a "public manifestation" under the constitution. Such publications must, of course, conform to the general laws of the press, in addition to which it is not improbable that restrictive measures as to exposure for sale or indiscriminate distribution of religious works may be forced upon the government by the demands of the opposition for "logical consistency" and "uniformity of action."

I am, &c.,

A. AUGUSTUS ADEE.

No. 248.

Mr. Adee to Mr. Fish.

No. 305.] LEGATION OF THE UNITED STATES,
Madrid, September 28, 1876. (Received October 17.)

SIR: Among the matters set aside for translation and report to you, but which have got overslaughed by the pressing business of the last few weeks, is the interesting and instructive report of the prosecuting officer in the matter of the assassination of General Prim. The interest felt in the United States in all that concerns the fate of Prim, together with the many allusions made by Mr. Cushing to this case as illustra-

tion of the law's delays in Spain, lead me, however, to venture to transmit it to you as it stands, with a few explanatory remarks.

The assassination of Prim, as you will remember, was effected under circumstances of peculiar publicity on the evening of the 27th of December, 1870. There was a thick coat of snow on the ground and it was still falling; a cab was stationed to block the mouth of the narrow street through which General Prim's carriage would have to pass on its way home from the Cortes. When the carriage stopped, several groups of men advanced from the two sides of the street and discharged repeated shots from old-fashioned blunderbusses, concealed beneath their long cloaks, point-blank through the carriage-windows, and all made their escape.

The evidence piled up in this case now fills some 12,000 pages of foolscap. Some dozen or two of persons were arrested on suspicion, while proceedings *par contumace* were had against other suspected persons to the number of about a hundred. And after nearly six years of investigation, the case now passes to its second stage, *á plenario*, as it is called.

The fiscal reports that all efforts have failed to disclose the *authors* of the crime; that the *complicity*, at least, is demonstrated of José Maria Pastor and Rafael Porcel y Blanca; that others to the number of five are liable to process as "authors of attempted assassination;" that nobody is shown to be criminally responsible for the wounding of General Prim's aid-de-camp; that proceedings against all the others, arrested or suspected, are to be abandoned; and that the cause may now proceed to the stage of the formal trial of those whom he denounces as accomplices.

The reasons for abandoning the prosecution of the parties suspected are given at some length in the case of each, and form the body of the document.

It would seem, therefore, that this mysterious crime, which public opinion has laid at the door of all the opposing parties in Spain, one after the other, without even plausibly fixing its paternity on any one of them, is destined to remain shrouded in more impenetrable mystery than ever.

I have, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

[From El Imparcial, Madrid, September 13, 1876.]

Report of the prosecuting attorney on the proceedings had in respect to the assassination of General Prim.

The case of the assassination of the illustrious General Prim, in which eighteen judges have taken part, having now reached its second stage, the report of the prosecuting officer has just been made public. We give it below, copied from the Gaceta del Ministerio Fiscal. It is as follows:

The prosecuting attorney, having performed the task assigned, reports: That he has examined this interesting case with all the care that it demands and deserves, and that from said examination it appears that on the night of the 27th of December, 1870, between 7 and 8 o'clock in the evening, his excellency Don Juan Prim, then president of the council of ministers, was proceeding in a coach from the hall of deputies to his residence, which was then at the ministry of war, accompanied by his two adjutants, Don Angel Gonzalez Naudin and Don Juan Francisco Moya; in the street called del Turco, however, near its end where it enters Alcalá street, several groups of men fired several times, from both sides, at the coach in which General Prim and his aforesaid adjutants were, the result of which was that the aforesaid general and one of his adjutants, Don Angel Gonzalez Naudin, were severely wounded, the wounds of the former being of so severe a character that in three days they caused his death.

As soon as the court called "de guardia" received information of the crime which had been committed, it commenced a preliminary examination at the house of Don Juan Prim; and at the same time and with the same object, the university court convened. Both of these courts remained in session for three days, at the close of which the result of the examination held by the two aforesaid courts was transmitted to this court, which was the one having jurisdiction of the case.

At the time when the act which gave rise to this case was committed, preliminary proceedings were had at the court of audiencia and at this, which proceedings constituted two distinct processes, and both for the crime of attempted assassination, but as soon as the crime was committed on the aforesaid night of December 27, 1870, the case which was pending at the court of the audiencia became an assassination case; and the other of attempted crime, which at that time was undergoing examination before the court, and which was continued independently until the liberation of the accused party, Cayetano Dominguez, continued afterward joined with this. This court, from the moment when it took charge of this case, has worked constantly and with the special interest demanded both by the criminal act which gave rise to it, in view of the horrible circumstances attending it, and because it was committed upon the person who then occupied the important position of president of the council of ministers, and at the same time that of minister of war; and from the mass of testimony taken, (which now fills more than 12,000 pages,) it appears that of the persons placed under arrest the following have been prosecuted: José Lopez Perez, Rafael Porcel y Blanco, Estéban Saez Leza, Martin Arnedo Fernandez, José Genovés Brugués, Manuel Rodriguez Garcia del Campo, José Maria Pastor, Jaime Alsina Xaran, Cipriano Gonzalez, and Pedro Acevedo; that the following have died in prison: Ruperto Merino Alcalde, José Roca Martinez, Clement Escobar y Perez, and the following have died without being arrested: Tomas Garcia Lafuente, José Anselmo Clavé, and Manuel Torregrosa.

The following have been examined and set at liberty: Tomas Carratalá Gloren, Don Felipe de Solis y Compuzano, Angel Galan Flores, Manuel Garcia Llanos, Benito Perez Cantarero, Juan Garcia Aguado, Joaquin Fernandez Marcote, Cayetano Dominguez, Maximo San Pedro Gonzalez, Lorenzo de No y Ferrer, Francisco Parrondo y Fernandez, Clemente Miramon del Rio, Juan Antonio Rodriguez Frio, José Alba y Mas, Felipe Rubio Calvo, Juan Rico Mareira, Fermin Dávila, Timoteo Saenz Tejada, Lucio Ruano Oliva, Bernardo Rochet Juan, Diego Lopez Santiso, Angel Ternel Blasco, Joaquin Hernandez Garcia, Francisco Pancorvo Solarve, Antonio Pacheco Moya, Angel Gonzalez Guerrero, Juan Martin Torres, Federico Onis y Onis, Eugenio Zurita Arroyo, Julian Palomar, Benito Roderiguez Fernandez, Fermin Soto Alamar, Felipe Fernandez Mayo Florentino Ricarte Marzo, Manuel Angulo Ayasti, Claudio Alvarez Escarpizo, Juan' Batllori y Rodriguez, Manuel Gomez Henares, and Casimiro Hernando Goricia. The following have been declared rebels, and the papers in their case placed on file: José Paul y Angulo and Enrique Sostrada.

The following are fugitives, and their whereabouts is unknown: Antonio Garcia Lorero, Francisco Luis Rivera, Miguel Gomez Cruz, Andrés Valencia Trapero, Andrés San Pedro Gonzalez, Pedro Lopez Garcia, Bartolomé Benavide Campuzano, Andrés Castro y Pliego, José Mendez Fernandez, Vicente Alvarez Nieto, Rafael Vasave y Cos, Manuel Romero Rubio, Demetrio Lafuente Larra, Roumaldo Lafuente Pardo, Cristóbal Rubio Fuentes, Urbano Rojas Ortiz, Francisco Córdova y Lopez, Mariano Peco y Cano, Enrique Diez Gomez, José Antonio Andreu, Miguel Pastor Casaño, Luis Sperandio Colauque, Mariano Gonzalez San Martin, Ramon Cala y Barca, Roque Bárcia y Ferraces, Estéban Nicolas Eduarte, Pedro Moreno Ibarrola, José Navarro Rubio, Antonio Serrate Arias, Ramon Gonzalez Pelaez, Francisco Lorences Castro, Angeles Barroso Sierra, N. Gravina Fernando Costa Herranz, José Perez Guillén, Santiago Gonzalez Pié, Mateo Ventura Santi, Antonio Gremandes y Botella, José Maria Angulo, Manuel Gomez Fuentes, Baldomero Vivanco y Valencia, Enrique Pato Saenz, Francisco Montenegro del Rey, José Muñoz Morente, Joaquin Tenellosa y Segura, Francisco Huerta, Bautista Galiano. And finally, the deposition of Don Antonio de Orleans, Duke of Montpensier, not made under oath.

During the course of these proceedings other acts have been examined which were supposed to be more or less intimately connected with the principal act of this case, referring to the abstraction of papers or documents from one of the persons on trial, fraudulent substitution of others, and finally there have been separate proceedings on account of the abstraction of a piece of card which was joined to the papers of this case. For the first of these acts, Cipriano Gonzalez, who appears among the parties arrested for the act which now occupies us, has been brought to trial; for the second of the acts mentioned, Don Maximo Rodriguez Ocaña was brought to trial, and is now at liberty; and for the last of the aforesaid acts, that is to say, the abstraction of the piece of card, no one appeared responsible, and proceedings were discontinued.

From all the foregoing, there appears sufficient ground for this ministry to form the following conclusions:

1st. That the acts investigated in this case constitute the crime of assassination of his excellency Don Juan Prim, president of the council of ministers; that of severely

wounding Don Antonio Gonzalez Naudin; that of attempted assassination, the examination of which was commenced in the court of the audiencia; that of abstraction of documents and fraudulent substitution of others, with regard to which two acts the prosecuting officer will make proper requests at the proper time, doing the same with respect to the case of attempted assassination, which was separately examined in this court, and which became the present case on account of its probable relation with the principal crime.

2d. That, notwithstanding the incessant labors of this court in order to discover who were the perpetrators of the assassination, whatever may be the private convictions of the court, there is not sufficient evidence to designate the perpetrators among all the parties placed on trial. One thing has at least been demonstrated, namely, the complicity in this act of José Maria Pastor and Rafael Porcel y Blanca, which makes them criminally responsible. The following are likewise responsible as criminals for the crime of attempted assassination: José Lopez Perez, Estéban Saez Loza, Martin Arnedo Fernandez, José Genovés Brugués, Pedro Acebedo, and Don Felipe Solis y Campuzano; while proceedings must be abandoned definitively, on account of their death, with relation to this case as regards Ruperto Moreno Alcalde, Clemente Escobar, Tomás Garcia Lafuente, and provisionally with respect to Tomás Carratalá. That there appears no person who can be held responsible for the crime of severely wounding Don Antonio Gonzalez Naudin. That it is proper to discontinue proceedings against Cayetano Dominquez for the crime of attempted assassination; and in relation to the other acts, at the proper time the proper requests will be made.

3d. That there appears to be no person who can be held to a civil subsidiary responsibility.

4th. That the preliminary proceedings being at an end, it is proper to bring this case to its second stage.

5th. That the prosecuting officer renounces the proof and ratification of the witnesses.

Th conditions of the preliminary examination being laid down, and the prosecuting atto y, obeying the instructions which he has received, will state, although briefly, the g unds on which he bases his claim to a provisional discontinuance of proceedings as regards the accused parties already mentioned, giving greater latitude to his views in cases in which the importance of the charge made so requires, and treating cursorily those in which, by their simple enunciation, it is clearly demonstrated that an excessive zeal and unpremeditated activity, or a secret purpose, without the motives which gave entrance in this proceeding to many persons, to the great hinderance of this important and celebrated process, and to the discredit of the upright and prompt administration of justice. According to the purpose above indicated, the case of each one of the parties against whom proceedings had been had will be treated, observing the proper separation, or else grouping them together in cases in which there were several persons against whom the same charge was brought.

In the first place it is proper to discontinue proceedings against Ruperto Merino Alcalde, José Roca Martinez, Clemente Escobar y Perez, Tomás Garcéa Lafuente, José Anselmo Clavé, and Manuel Torregrosa, sufficient evidence having been furnished of their deaths.

A provisional discontinuance of proceedings is proper, in the opinion of the undersigned attorney, in the case of the parties who will be mentioned below, because sufficient evidence was not furnished of the charges brought against them on the preliminary examination; and, following the order in which they have been placed in giving their names, it is proper to begin with Tomás Carratalá y Lloren. This person, charged with the crime of attempted assassination in the court of the audiencia, appears concerned in it, according to the statements given in folios 1 and 3, and the official entry on folio 7, but the investigations having commenced, the result was, according to the declarations of the criminals themselves, and from what is deduced from their examinations, (folios 23 and 123 of the proceedings had in the audiencia, and from its amplification to the case of assassination, folios 4,258, 4,284, and 4,873,) that this person, although he was even connected by kinship with one of the perpetrators of this crime, had no participation in it.

Miguel Rodriguez Garcéa del Campo, arrested in this case, the accusation against whom is, that when the crime of assassination was committed, there was at the time standing in the street called del Turco a cab, which is supposed to have been intentionally placed so as to impede the passage of the carriage in which were General Prim and his adjutants. There were suspicions that the driver of this carriage, entered under No. 96, was Manuel Rodriguez. Proceedings were had against him, but nothing can be established, save in what refers to his presence at that place, both as regards the services rendered with his carriage on that day, which do not accord with the register belonging to the carriage which he drove; and it having been impossible to establish any particulars determining his guilt, although he is arrested, it cannot be doubted that proceedings against this individual should be discontinued.

Jaime Alsina Xaran, arrested also for this cause, was detained at Motbuy on the

supposition that he was one of the assassins of General Prim, it being charged that he had so stated, and that he had received considerable sums of money in payment for taking part in said assassination, as shown more at length, (folio 2, 731;) but the matter having been properly investigated it was impossible to establish this statement, and only possible to prove his bad antecedents, which have no relation with the present case.

Angel Golan Flores, porter of the house No. 1 in the street called del Turco, and Manuel Garcia Llanos, keeper of an inn situated in the same building, were included in this charge, it being supposed that they had concealed the criminals who committed the crime in their house, but on full investigation of the facts nothing could be shown in confirmation of this.

Benito Berez Canterero was denounced by two sergeants who thought they had heard him say that he had taken part in the act under consideration. They were, however, not able to establish their declarations, and therefore the importance of the charge against him disappears.

Juan Garcéa Aguado was considered as being a suspicious character on account of his well-known republican opinions, and on account of occupying intimate relations of friendship with Francisco Huerta and other persons of similar opinions, and on account of having been seen by several persons on the day of the event near the hall of congress, and because public opinion considers that this crime was committed by persons entertaining these ideas, both this person, and others who will be mentioned hereafter, were subjected to this proceeding without a really well-defined charge, but on account of their well-known political opinions, joined, in some of them, to unfavorable antecedents; the responsibility of this party, however, has not been established.

Joaquin Fernandez Marcote, placed on trial for the same reasons as the persons last mentioned, was submitted to this proceeding without the obtainment of any result showing his criminality; but when it appeared that the participation imputed to him lacked proof, an incident which requires a somewhat lengthy explanation arose to complicate his situation, the supposition being that the charge originated by the prosecution of Roque Bárcia, (which charge may be found on folio 2, 435 *et seq.*,) and with regard to which charge a brief review must be made, it being doubtless of some importance. In the city of Valencia, a person whose name is shrouded in the most profound mystery, found a letter addressed to Don Roque Bárcia, and without opening it, and therefore not being aware of its contents, he supposed that under that envelope something serious was contained which ought to be made known to the government; and full of this idea, he delivered it to one of the persons connected with the government of the state, but rigorously maintained the secrecy which he had proposed to observe as regarded his name. The government having obtained possession of this document, the necessary steps were at once taken to find out if it was of any importance; this delicate mission being confided to a police officer named Santa Maria, (of very questionable character,) who proposed to the aforesaid Roque Bárcia, in order to ascertain whether the document was of any importance, to sell it to him for a pretty large sum of money, which, after various efforts resulting in nothing, the aforesaid letter was opened, and it was found that it was a document in cipher, the key of which was discovered without difficulty; and having been translated, although not with perfect accuracy, the aforesaid Roque Bárcia appeared implicated in the crime under investigation, and this incidentally increased the suspicions against this person on account of its references to a party arrested for this cause, whose name commenced with Mar—which charge, if true, could refer to no other than Joaquin Fernandez Marcote. This document, however, lost all force so far as regards the principals in the case, and much more as regards the person whose case is now under consideration, who suffered the consequences of the intemperate acts of Bárcia, who doubtless brought suspicion upon him by means of a well-woven plot for the purpose of obtaining revenge for some grievance. The matters which we have just stated being of no importance so far as Bárcia is concerned, are equally without importance as regards Fernandez Marcote.

Cayetano Dominguez. This person was brought to trial on account of a charge preferred before the court called "del congreso," to the effect that he, with another, proposed to assassinate General Prim, on account of a conversation heard at the riding-school of one Ballester; the case having been examined, however, nothing was elicited in confirmation of this suspicion.

Maximo San Pedro Gonzalez, Lorenzo de No Ferrer, Francisco Parrondo Fernandez, Clemente Miramon del Rio, Juan Antonio Rodriguez Trio, and José Alba y Mas appear implicated, in consequence of their opinions, and on account of their connection with certain associations, as is detailed more at length in the charges preferred against each respectively, (folios 71, 72, 149, and 300;) but in the course of the examination their participation in this crime could not be shown.

Felipe Rubio Calvo was imprisoned at Saragossa, and sent for examination to this court, on suspicion of being one of the perpetrators of the crime under consideration, (folio 314,) but no foundation for the charge could be shown.

Juan Rico Moreira, accused by the police, (folio 535,) Fermin Dávila, Timoteo Saeuz

Tejada, (folio 638 for both,) were included in this process on a charge brought by the police, (stated on the folio aforesaid,) in which they are presented as suspicious persons in view of their well-known republican opinions; but, with respect to these persons, as to several others whom it is not necessary to mention, no determinate charge was made, and, therefore, the result was the same, since it was impossible to prove any participation, direct or indirect, as was supposed by the police officers.

Luis Ruano Oliva was held by the alcalde of Loeches, and placed at the disposal of this court, on account of being considered likewise suspicious, (folio 338.) These suspicions, however, did not become even remotely probable, and, therefore, the foundation for the charge disappeared.

Bernardo Rochet, Juan and Diego Lopez Santiso, according to an accusation of the police, (folios 535 and 590,) are likewise designated as presumptive perpetrators, their prominence in the republican party being doubtless considered; and, in view of this circumstance, it was thought that they must be concerned in the assassination in question, the only foundation therefor doubtless being that, it being the work of a party, all of the most prominent members of said party must have contributed in some manner to the accomplishment of its purposes; but, as the supposition is neither well-founded nor rational, the consequence cannot be admitted in the case with the persons under consideration.

Angel Teruel Blasco, as appears, (folio 496,) was detained by the alcalde of Narvamorcuende, on account of being considered a suspicious person, and on account of his being a fugitive from this capital through fear of the responsibility to which he might be held on account of complicity in this case; and it is necessary to admit that the zeal of the aforesaid alcalde on this occasion was followed by as good results as the efforts of the police in those above referred to and some others, which must occupy our attention hereafter.

On folios 677 and 679 appear, designated by a denunciation of the police, Antonio Pacheco, Joaquin Hernandez Garcéa, and Francisco Pancorbo Solarve, as presumptive perpetrators, likewise on the same grounds, for similar reasons, and with remarkable success, like the foregoing.

Angel Gonzalez Guerrero, the charge against whom is found on folio 658, was imprisoned on two occasions, in view of the relations which undoubtedly existed between him and José Maria Pastor, for whom he received various letters from prominent criminals, as was well known; although, notwithstanding all the steps taken to elicit the truth, no appreciable result was gained, legally, although the existence of an understanding between these persons became morally certain.

Juan Martí y Torres appears (on folio 880) to have been a constant companion of Anselmo Clavé, likewise placed on trial in this case, on account of which intimate relation it is supposed that he must have taken part in the affair. As it was impossible, however, to show any grounds for the charge, that is to say, of the participation of Clavé, the consequences which from this fact might be deduced against the accused lose all force.

Federico Onis y Onis was considered as one of the principal concocters of the plan which resulted in the death of General Prim. Since it appears (folio 1125) that one of his servants, seeking to quiet his conscience, which had been somewhat disturbed in view of the horrible event which gave rise to this case, and of which he supposed his master had had previous knowledge on account of the proposal which he made to him to take part in the crime, which participation he had refused, denouncing the instigator, which circumstance could not be substantiated in any manner, it was impossible to demonstrate anything more than the existence of a desire for vengeance, or motives which it is not important to investigate for the case under consideration.

Eugenio Zurita Arroyo likewise appears (folio 1120) to have been held as liable to suspicion on account of participation in this crime by the authorities of San Sebastian, who placed him at the disposal of this court, without the obtainment of any practical result.

Julian Palomar (folio 2059) was likewise denounced by the police as guilty, without any substantiation of the charge made against him.

José Benito Rodriguez Fernandez, placed at the disposal of the court by a communication from the governor of the province (folio 3419) as a suspicious person, and for the same reasons as shown on folio 3680, was arrested several times, as were also Fermin Soto Alamar, of Valencia, and Felipe Fernandez, (folio 820.) These persons are under the same conditions of responsibility, originated only by their political opinions.

Florentino Ricarte, denounced by Ciprés, (folio 3592,) and Manuel Angelo, denounced by José Lopez, (folio 4143.) Both accusations referred to the participation of the accused in acts connected with the case, but which can in no wise cause them to be considered as perpetrators of the crime under consideration, for at most they can only have been participants in details of minor importance.

And finally, Claudio Alvarez Escarpizo, (folio 462,) Juan Batllori y Rodriguez, (folio 462,) Manuel Gomez Henares, (folio 4433,) and Casimiro Hernandez Gorcia, (folio 4819.) The charges made against all these parties seemed to be groundless, the result of want

of skill on the part of the police. Thus it is necessary to discontinue proceedings in these cases also, as in the foregoing.

In conclusion, it is proper to say a few words with regard to the personality of the Duke of Montpensier, who was placed in an anomalous situation by this case, and which, in the judgment of the undersigned, should be defined, since it appears in the case that he made a deposition, not under oath. There likewise appeared in this ministry under date of June 12, 1872, some charges against the aforesaid duke, which, having been disregarded by this court and the superior court, the decision of the latter was that said gentleman should not be held as a witness, since it only confined itself to repairing the error committed by the attorney in considering that the charges which existed against the perpetrators of the crime of attempted assassination extended to the aforesaid duke, and that, in being disregarded, they involved a discontinuance of proceedings, which, not then having taken place, should now do so, the undersigned lamenting that his mistaken judgment may have given rise to discussions which, after all, could result in nothing but the blotting of a page of history.

Finally, with respect to the parties declared rebels, and ordering the case to be placed on file by order of December 2, 1874, which has already been mentioned in this document, the aforesaid decision must be considered as executed, or it must be again reproduced in order to have the proper effects in the case.

First addition: As indicated elsewhere in this paper, in the course of this process proceedings have been instituted against the crime of abstraction of documents, on account of which act Cipriano Gonzalez has been placed on trial and is now under arrest, and that of fraudulent substitution of others, for which Máximo Rodriguez Ocaña appears responsible, the proceeding having been continued in this case in order to discover if it could be connected with the principal act which gives rise to it, but having been sufficiently investigated, and it appearing that they are independent and isolated facts, they must be followed up by themselves, the necessary documents being formed separately, with the necessary insertions which the attorney will designate, and the aforesaid testimony must be sent for substantiation to the competent courts.

Second addition: Sufficient grounds of criminal responsibility not appearing against Manuel Rodriguez and Jaime Alsina, for whom this ministry solicits a discontinuance of proceedings, it is proper that they should be set at liberty, since justice requires this.

Third addition: The attorney, considering the great confusion to which this case has given rise and the difficulty of proceeding to an examination of it in that which concerns each of the defenses, the accompanying statement is sent, which comprises the names of all against whom proceedings have been had in this case, and who have been considered as presumptive perpetrators of the different acts against which proceedings have been instituted, in order that it may serve for the proper preparation of the defenses by facilitating their examination.

DR. JOAQUIN VELLANDO.

MADRID, *February* 29, 1876.

No. 249.

Mr. Adee to Mr. Fish.

No. 313.] LEGATION OF THE UNITED STATES,
Madrid, October 1, 1876. (Received October 17.)

SIR: * * * The Cuban loan was awarded yesterday, with much solemnity, to Messrs. Lopez, Calvo, Vinent, and Cabezas, the signers of the previously-reported provisional contract of August 5. Some two hundred persons witnessed the proceedings.

Only two bids were put in, viz, that above mentioned and that of the Marques de Campo.

Mr. Llaseras, by letter from Paris, withdrew his bid, by reason of inability to make the required deposit of three-quarters of a million of dollars.

The scheme of the Marques de Campo offered $15,000,000 for ten years at 10 per cent., to be advanced to the government in four installments at intervals of two months each, on the guarantee of the Cuban customs: one million to be advanced forthwith on account and credit opened for another million if needed; the loan to be repaid within ten years by

retaining from the customs receipts a sum sufficient to pay principal and interest due in monthly parts; guarantee of the Cortes required before December 31, or else the contract to be rescinded with indemnification.

The Bank of Havana put in a protest against any pledge of the customs of Cuba in prejudice of its own claims secured by the same guarantee. This protest was not admitted.

After public discussion of the plans presented, Mr. Calvo raised his offer for an immediate advance, without interest, to $1,500,000, half to be paid in Havana.

The ministers were then left alone to deliberate, which they did till 8 o'clock, when public announcement was made that they had unanimously decided in favor of Mr. Calvo's offer, which was accordingly formally accepted.

I have,&c.,

A. AUGUSTUS ADEE.

No. 250.

Mr. Adee to Mr. Fish.

No. 322.] LEGATION OF THE UNITED STATES,
Madrid, October 3, 1876. (Received October 21.)

SIR: The Epoca has been publishing, for some weeks past, a series of editorial articles of considerable ability on the present condition of the Spanish navy, and calling attention to the circumstances that the construction of new ships has been abandoned; that the iron-clad fleet of Spain is antiquated already, in view of the recent strides made in the perfection of guns and armor; that naval discipline is decreasing through idleness and want of maritime practice; that vessels laid up out of commission are rapidly deteriorating; that the damages inflicted by the occurrences of Cartagena, Carraca, and Ferrol are as yet unrepaired, or, if repaired, that mistaken ideas of economy have interfered to render the work nugatory; that the ill effects of these false views of retrenchment are felt in all branches of the service; and that immediate steps are needed to restore the Spanish navy to the comparative grade of excellence it had attained toward the close of the reign of Queen Isabel. These articles, which were variously attributed to naval officers of high rank and wide experience, produced some interest in the matter, and were very generally commented on, to the result of drawing from the present minister of marine an unofficial announcement of intention to enter the lists in a series of newspaper-articles controversive of the views put forth by the Epoca. One of his first steps, however, has been the adoption of one among the expedients suggested, namely, the formation of a squadron of instruction, to be composed of the vessels now in commission for the peninsula, under the current appropriation voted by the Cortes, and to be commanded by Rear-Admiral Don Santiago Duran y Lira, lately minister of marine. Translation of the royal decree of September 30, creating this school-squadron, is hereto annexed for your information. You will notice that the minister speaks of the reductions made by the Cortes in the naval appropriations for the peninsula. The number of vessels commissioned under the act of July last for peninsular service during 1876–'77 is as follows:

Iron-clads.—One frigate for twelve months, two for six months each, and two, for special service, for twelve months each.

Screw-steamers.—First class, two frigates for twelve months, two for six months, and one, for special service, for twelve months.

Second class, (on South American station,) two corvettes for twelve months, three for three months, and two *avisos* for three months.

Third class, (on South American station,) five sloops for twelve months, one for six months, and three gunboats for twelve months.

Side-wheel steamers.—First class, one on special service for twelve months.

Second class, three for twelve months, one for three months, and one, on special service, for twelve months.

Third class, two for twelve months and one for six months.

School-ships.—One screw-frigate (floating naval school) for twelve months, another (gunnery-school) for twelve months, one frigate and one corvette (sailors' training-ships) for twelve months, under sail, and another sailing corvette (school of naval apprentices) for twelve months.

Transports.—Two steamers for six and twelve months, respectively.

Coast survey.—One steamer, twelve months.

Tugs.—Two for twelve months.

Besides these, there are maintained for coast-guard service one ponton, ten gunboats, three steamers, one steam-cutter, and seventy small vessels, all for twelve months. To man these vessels and the several navy-yards, 8,473 sailors and 4,427 marines are provided for. This gives a total of 46 naval vessels and 85 coast-guard boats to be maintained at the cost of the peninsula. Vessels for colonial service are maintained by the respective colonies.

I have, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Royal decree, organizing a naval squadron of instruction.

[From the Gaceta de Madrid, October 3, 1876.]

MINISTRY OF MARINE.—PREAMBLE.

SIRE: It is already widely known how much your majesty, as supreme chief of the nation, is identified with the establishment of practical measures recognized as beneficial to the different branches of the service. On various occasions the minister who subscribes has had the honor to lend due attention to the opportune suggestions which your majesty, as the august general in chief of the sea and land forces, has been pleased to make to him with respect to the navy, with the lively interest which has ever been inspired in him by the luster of the national arms. Your majesty recognizes the principle that squadrons or collections of vessels, apart from other objects, are indispensable in order to attain the more solid instruction of the various classes of the crew and officers of ships of war. And, in effect, sire, however brilliant may be the degree of instruction to which the complete organization of the single ship may attain, it does not reach the consummate practice in so far as relates to signals, tactical movements, order, discipline uniformity, and especially, conjunction of details, which is supplied by the before-mentioned squadrons. It is not to-day permitted to Spain to display her flag in any squadron of great importance. The number of vessels being reduced to the merest and most pressing needs of the normal service, in subjection to the credits voted to that end by the Cortes, there are but few ships available in the peninsula to form a modest squadron, to the end of filling the want felt in that direction by the system of instruction in our navy. But a few may at least be assembled, now detached at different points, and thus be obtained the advantages of necessary organization required, if the service is indeed to correspond in all respects to the expenses it occasions. As a general rule, the squadron will visit all the coasts of Spain under sail, and, besides accomplishing its special object, it will constantly and directly watch, on those coasts, over the shore-service, whether that commended to the coast-guard or that performed by single vessels or small detachments, in order to exercise vigilance

likewise over the exact observance of the rules of discipline, order, instruction, and police. The direct inspection of all these services being thus centered in one general officer, their discipline and whatever conditions make up the most perfect organic state of a naval force will doubtless reach the degree of perfection which it is allowable to hope for. Great satisfaction will be felt by all the corps of the armada, and especially by the minister of marine, if, when your majesty in due time shall deign to review the squadron, it shall present, before your royal inspection, so important a result. In order to efficiently second the purposes of your majesty, and founding on the reasons set forth in accord with the council of ministers, he of marine has the honor to propose to your majesty the adjoined project of a decree.

Madrid, September 30, 1876.

Sire, at your majesty's royal feet,

JUAN AUTEQUERA Y BOBADILLA.

ROYAL DECREE.

Giving heed to the reasons set forth by the minister of marine, and in accord with the council of ministers, I hereby decree the following:

SOLE ARTICLE. The minister of marine is authorized to the end that, under the command of a rear admiral, he give the necessary orders for the formation of a squadron, which shall be denominated the *squadron of instruction.*

Given at the palace, September thirtieth, one thousand eight hundred and seventy-six.

ALFONSO.

The minister of marine JUAN AUTEQUERA Y BOBADILLA.

No. 251.

Mr. Adee to Mr. Fish.

No. 324.] LEGATION OF THE UNITED STATES,
Madrid, October 4, 1876. (Received October 21.)

SIR: I have the honor to transmit herewith copy and translation of an editorial article of the *Epoca* on the sugar-trade between Cuba and the United States. You will observe that the article is founded upon a recent one on the same subject in the *Cronista*, of New York, wherein the writer foresees danger of future competition and injury to Cuban interests, by reason of the late treaty between the United States and the Hawaiian Islands, which gives to the sugars of the latter free entrance on our Pacific coast.

Without stopping to inquire what the present imports of Cuban sugar on the Pacific coast amount to, or how far Hawaiian sugar is likely to find its way overland to the Atlantic States and so compete directly with that of Cuba, I merely call your attention to the remedies proposed, namely, peace in Cuba and a commercial treaty with the United States.

The whole question of the sugar-production of Cuba and Puerto Rico is one which now excites much interest here, it being generally regarded as the first duty of the government to foster it in every practicable way; and much satisfaction is felt at the circumstance that the exportation of sugar from Cuba has not been diminished by the ravages of the war.

I have, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Editorial article on the sugar industry of Spain and her colonies.

[From La Epoca, Madrid, October 1, 1876.]

THE SUGAR-RAISING INDUSTRY.

It does not admit of doubt, as the *Diario de la Marina* seasonably asserts, that if the island of Cuba is to combat the obstacles in the way of its reconstruction it needs order and repose and great watchfulness, without which there is no possibility of recovering its lost equilibrium. The untiring endeavors to bring about the discredit of the island by exaggerating the evils caused by the insurrection, and holding up the government as being absolutely impotent to overcome it, have not, it is true, accomplished diminution of the faith and perseverance consecrated to their labor by the loyal producers of that Antilla, who see the reward of their efforts in a visible augmentation of production and in the sterility and fruitlessness of the resources which the incendiaries bring into play against the decided protection given by the government to the honest activity of the laborious inhabitants of the island. But, in spite of all this, it is unquestionable that order and repose alone constitute the most solid future guarantee which has to mark the progress of the island.

The protraction of the struggle is causing the production of sugar to be fomented in other parts in the hope that foreign production will soon annul the predominance of this crop in the island. This scheme of competition, which at the present moment offers no danger whatever, may give rise to future peril, if efforts be not made to avoid it in time by putting into action the means which patriotism and experience counsel. The remarks in this relation made by *El Cronista*, of New York, remarks whose judicious discretion suggests to the *Diairo de la Marina* the article which, under the heading of "competition," is published in its number of the 2d instant, ought not to be passed unheeded by our readers, since it comes as a cry of alarm against the stratagems of which our sugar-trade is the object. No less a thing is referred to than the celebration of a treaty of commerce between the President of the United States and the King of the Hawaiian Islands, a treaty which Congress has definitively approved, giving to the productions of those islands free entrance into the neighboring republic through its Pacific ports. The sugar-raising industry, as our appreciable contemporary observes, is there "in the hands of American producers, and the President and Congress have doubtless sought to stimulate their spirit of enterprise in favor of that concession, whose most legitimate and certain result will be to encourage the cultivation of the cane in that most fertile archipelago and to strengthen the influence which the United States already exercise in their administration and government."

So very clear are the data and observations wherewith *El Cronista* presents this matter that we can do no less than reproduce those which, in our judgment, are invested with the most important.

"Taking as a basis," our contemporary writes, "that the convention in question is invested with a character of permanence which will strengthen the interests that spring up in its shadow, the *Cronista* would not fulfill its duty of watching in behalf of those of Spain and her Antillas did it not at once suggest the unfavorable consequences which this treaty may have for us, and the simplest means of modifying them, at least, now that preventing them is no longer within our reach.

"The consumption of sugar in the United States, according to the latest data just published by the Statistical Bureau of Washington, is as follows:

	Tons.		Tons.
In 1867	468,393	In 1872	673,471
In 1868	498,649	In 1873	689,249
In 1869	503,812	In 1874	755,728
In 1870	591,538	In 1875	787,941
In 1871	583,147		

"The population of the United States during these same years, likewise taken from official documents, was—

	Souls.		Souls.
In 1867	36,211,000	In 1872	40,604,000
In 1868	36,793,000	In 1873	41,704,000
In 1869	37,756,000	In 1874	42,850,000
In 1870	38,558,371	In 1875	44,060,000
In 1871	39,555,000		

"These data show with mathematical accuracy that, while the population of the United States has increased 21.67 per cent. in the course of these nine years, their consumption of sugar (deducting sirups, to which, however, like reasoning could apply) has increased 68.22 per cent. in the same period. It is needless to say more for our

readers to appreciate the vast importance of this question to the consuming country and the producing nations.

"Well, then; in 1875, when the United States consumed, according to official statistics, 787,941 tons of sugar, our island of Cuba exported thither 545,395 tons, and Puerto Rico 55,011; that is, 600,336 between the two, or 76.17 per cent. of the total consumption of those States. Estimating at 120,000 hogsheads, of 1,400 pounds net each, the sugar-crop of Louisiana, which, through circumstances which it is foreign to the subject to examine here, will not be increased in the coming years—nor, perhaps, equal that of last year—we have from this source about 84,000 tons; that is to say, 10.66 per cent. of the total consumption. To 13.17 per cent., therefore, amounts the required importation from foreign countries to cover the difference.

"The islands of Hawaii helped to make good the deficiency in that year with 10,804 tons of sugar, or only 1.36 per cent. of the consumption, which shows that they have hitherto been far from formidable as rivals. But ought we to infer from this that they will not become such in the course of years? It is to be borne in mind that Cuban sugars, which form the main stock in the markets of the Union, are subject to a gravamen of 2½ cents in gold per pound at least, in the form of impost-duties, and it is to be considered that this represents an income for the Federal Treasury of $12,458,618.40 in years like the last one, an income which cannot be and ought not to be willingly foregone; and that consequently the privilege of free trade with Hawaii is equivalent to a premium of 2½ cents in gold, paid by the American Government for the encouragement of the sugar-production in those distant islands, one day, perhaps, to be theirs; and our readers will agree that, those islanders being incited by so powerful a stimulus, the cultivation of the sugar-cane in the Sandwich Islands will receive so great an impetus that in a few years they will come to be for Cuba and Porto Rico, in the markets of this country, a country which high reasons of policy would counsel them to retain as the principal consumer of their products, an extremely troublesome competitor, which soon afterward would be converted into a constant and dangerous adversary."

In order to combat this new and terrible competitor, which presents itself to view for the first and most important of the productions of the island, the *Cronista* observes that there is no other way than to furnish the government with the means needful for the prompt ending of the war, the sole conquest which will restore tranquillity to the fields and peace and contentment to the cities. We agree with the opinion of our contemporary, but to so absolute a pitch that we do not for a moment doubt the success of the remedy. The resources for the approaching campaign being assured, as they now are, and the sugar-raising district being saved from the dangers which threatened it, we hold the conviction that there will not long have to be awaited a measure of an international character which will yield mutual advantage to the commerce of the United States and of Spain, saving our colonial production from the competition which threatens it. To the advantage offered by the geographical position of Cuba, and by the natural influences of the climate on the cultivation of the cane, will be added those springing from improvements in manufacture, which allow of greater yield than that now obtained. Six months of peace will realize all these gains.

No. 252.

Mr. Adee to Mr. Fish.

No. 332.] LEGATION OF THE UNITED STATES,
Madrid, October 7, 1876. (Received October 25.)

SIR: Referring to my dispatches numbered 248, 308, 313, and 319 on the subject of the lately-awarded Cuban loan of $15,000,000, and in completion of the record of the matter, I have the honor to transmit herewith copy of the royal order, dated 30th ultimo, awarding the loan to the original bidders, Messrs. Lopez, Calvo, Marques de Vinent, and Cabezas. This order is accompanied by a very full minute or "acta" of the proceedings of the formal adjudication. I regret that the length of these documents precludes my translating them at present without prejudice to other business; but I do not know that it is very needful after all to do so, as my previous dispatches will have made the matter sufficiently clear to you without inflicting upon you the task of reading the

present document. The only points to which it seems worth while to direct your attention are the reasons for rejecting the bid of Mr. Campo, which are stated to have been, first, his exigence of a national guarantee of the Cortes instead of leaving the loan merely local, as the government desired; and, secondly, the circumstance that the joint-stock company to take it up still remained to be organized in the form of what is called here an "anonymous society," whose bonds or shares, in open market, might fall for the greater part into the hands of foreigners, thus giving them the control of the customs of Cuba to the prejudice of native Spanish interests. There was, besides, a difference against Mr. Campo, and in favor of Mr. Lopez and his associates, of at least a million of dollars in the amount to be furnished to the government before the end of the present month, for the purpose of defraying the immediate expenses of shipping the new re-enforcement of 24,000 men to Cuba during the same time; and as that is the main object for which the loan is contracted, this motive alone would have been enough to insure the award being made to the signers of the provisional contract of August 5.

I have, &c.,

A. AUGUSTUS ADEE.

[Inclosure.]

Royal order of September 30, 1876, awarding the Cuban loan to Messrs. Lopez, Calvo, Vinent, and Cabezas.

[From the Gaceta de Madrid, October 7, 1876.]

MINISTRY OF THE COLONIES.

In view of the meeting held on this day in presence of the council of ministers for the final award of a loan of from thirteen to twenty millions of dollars, in order to provide for the wants of the treasury of the island of Cuba, the result of which was—

First. That on the said occasion the formalities were observed which were prescribed by the royal order of the 27th instant.

Secondly. That the council of ministers having assembled at the ministry of the colonies at 3 o'clock in the afternoon, in order to receive proposals until 4, at that hour there had only been presented one from Messrs. Antonio Lopez, on his own behalf and on that of various establishments of credit and individuals of Barcelona; Manuel Calvo, on his own behalf and on that of various establishments of credit and individuals of Havana; and the Marquis de Vinent and Don Rafael Cabezas, on behalf of the Bank of Castile, whose proposal had been considered as a provisional contract from the 5th of August last; and another, sealed and presented in person by the Marquis de Campo, which, when opened, was found to be signed by J. Campo & Co.; since, a third proposal, signed by Don Juan Slasera y Garrido, on the 7th instant, was withdrawn by that gentleman by special application, as stated at the meeting.

Thirdly. That Messrs. Calvo and Cabezas, by an official letter addressed to the minister of the colonies on the 29th instant, pledged themselves to advance to the government a million and a half of dollars during the next month of October, in addition to the 15,000,000 reals which they had advanced on executing the provisional contract, which pledge they ratified at the time of the meeting, extending it to 15,000,000 reals additional, to be paid by them to the supreme authority of Cuba on the 30th of the same month of October; total, $3,000,000, without interest or security; whereby the proposal of the signers of the provisional agreement was considered as increased, according to article 5 of the aforesaid royal order of the 27th.

Fourthly. That the Marquis de Campo withdrew the second part of article 12 of his proposal, which read thus:

"In case this contract shall not receive the legal sanction referred to within the present year, it shall be rescinded, *de facto* and *de jure*, and the government shall be obliged to pay in cash the sum that may be due in liquidation, and to pay damages."

Whereas the aforesaid article 12 of the proposal of J. Campo & Co., even though it be modified as stated, in prescribing that "the Government shall submit the agreement to the Cortes as soon as they assemble, in order that through them the guarantee

of the nation may be given for the principal of the loan and for the funding and interest," really leaves the perfection of the contract in doubt, or at least subjects it to a condition; for, if submitted to the Cortes of the kingdom, that is, placed under their deliberation, it is evident that the Cortes may approve or disapprove it, or annul it by refusing the national guarantee, a condition *sine qua non*, according to the article for the validity and existence of the agreement.

Whereas the nature of the case, and of the grave and urgent matters to which the principal of the loan is to be devoted, do not permit the contract by means of which the loan is effected to remain in a state of uncertainty and without immediately and irrevocably producing all its effects, without furnishing to the government all the means that it needs in order to re-enforce and maintain the army of the island of Cuba, which is about to enter upon a new and decisive campaign against the enemies of the integrity of the country.

Whereas this peremptory necessity of the state, which renders all idea of delay in the consummation of the loan not to be thought of, can and must be satisfied by the government within the sphere of its powers, the question being concerning one of the ultramarine provinces which is governed by special laws, and with respect to which neither the constitution nor the constant practice of all former administrations requires, or has ever required, previous legislative authorization to borrow money on the security of their credit and revenues. The government is, of course, responsible to the Cortes, to which it proposes to give an account of the contract, as provided in article 14 of the provisional agreement, whereas the requirement contained in the same article 12 of the proposal of J. Campo & Co., of the unconditional guarantee of the nation for the entire principal of the loan, making the treasury of the peninsula responsible jointly and equally with that of the island of Cuba, not subsidiarily, and only for such amounts as may not be covered by the customs-revenues of that province, as was provided in the provisional agreement, would change the nature of the loan, altering its character from a local or provisional to a national one, and would cause it to weigh very heavily upon the already overburdened treasury of the mother-country.

Whereas Messrs. Campo & Co. expressly state in the seventh article of their proposal that for the fulfillment of the contract, in case of its being awarded to them, they would form an anonymous society of credit, and that this kind of society, as indicated by its name and confirmed by its nature and juridical conditions, by the representation of the capital in shares of free circulation, by the free choice of its management, by the vote of the shareholders, and the limitation of the responsibility of the latter to the capital invested, permit no sort of guarantee for the condition of nationality, for obvious reasons of patriotism required in article 11 of the provisional contract and in the royal order of the 27th of August last, since no one could prevent the whole or the greater part of the shares of the society formed by Messrs. Campo & Co. from falling into the hands of foreigners, who, by this fact alone, would obtain control, either directly or through their representatives, of the collection of the customs-revenues of the island of Cuba.

Whereas the government, by reason of its duties and its constitutional responsibility, and because, after the realization of the loan under the guarantee of said customs-revenues, will still continue to be the party most largely interested, with an immense difference in the amounts yielded by said revenues, cannot abandon or permit its essential powers in the administration and collection thereof to be diminished, much less those of unlimited intervention and inspection, as it would do by accepting the aforesaid seventh article of the proposal of J. Campo & Co., inasmuch as said article provides that "the party to whom the loan is awarded, and in his stead the anonymous society which may be formed, shall establish, with the concurrence of the government, the form of organization of the management, collection, and control of the customs revenues of the island of Cuba;" which clause assigns to the government a secondary part in this important task; it contains no concrete guarantee for its indispensable control and vigilance, and would constitute an anonymous and perhaps foreign society as a board of managers offering the government no compensation for the principal source of revenue of the great Antille, save the right to annul the contract;

Whereas the same seventh condition of the proposal of Messrs. Campo & Co. would make the existence or annulment of the contract dependent upon the will of the parties making the proposal, or of the anonymous society of credit to be formed by them, since to secure such annulment it would be sufficient to establish rules which could not receive the approval of the government for the management, collection, or control of the customs-revenues of the island of Cuba;

Whereas, for the reasons hereinbefore stated, the proposal of J. Campo & Co. is unacceptable in principle, and cannot be compared with any other which fulfills the very important conditions in which this is wanting, on the points which have been examined, whatever may be its other conditions with regard to the immediate advancement of funds and to time of payment, interest, and participation in the increase which may be obtained in the customs-revenues of Cuba;

Whereas, moreover, J. Campo & Co. only offer the government one million of dollars

at the time of the execution of the document making the award, although they promise an additional million in credits opened upon cities of Europe and America if the government fails to place the collection of the customs-revenues in their hands, for causes over which it has no control—a vague and indefinite promise, the fulfillment of which it would be very difficult to exact, in view of the nature of the condition and the obstacles which would lie in the way of proving it, and impossible of fulfillment within the month of October, when much larger amounts than those offered by Campo & Co. are indispensable for the sending and first expenses of the 24,000 men who must go by the middle of that month to re-enforce the army of the island of Cuba;

Whereas Messrs. Lopez, Calvo, Vinent, Cabezas, and those on whose behalf they appear, offer, unconditionally, $3,000,000 during the month of October, the delivery of which sum assures the realization of the very important service in question, without which the sacrifice which the government is obliged to accept for the sake of the honor and integrity of the nation would be vain and improper;

Whereas the speedy delivery of the funds contained in the proposal of Campo & Co. for the $15,000,000, which is the minimum of the loan, with relation to the other proposals presented, is of no importance if it be considered that the government only needs the funds at the times mentioned in the provisional contract, and might even be considered as prejudicial in view of the speedy payment of interest on sums prematurely received;

Whereas the difference between the two proposals in question, with respect to the rate per cent. due to the lender in the increase which may be obtained in the customs-revenues, according as the loan is limited to $15,000,000, increased to $20,000,000, or reaches the maximum of $25,000,000, although favorable to the treasury, according to the proposal of Campo & Co., loses much of its importance if it be considered that it will disappear entirely in case, as the government expects, the loan reaches the sum of $25,000,000, since then both proposals provide for a participation of 50 per cent. in the increase of the revenues;

Whereas, therefore, there is no real appreciable difference in the details of the two proposals, save that of 2 per cent. in the interest of the loan; since, while the signers of the provisional agreement require it for failures in drawing and expenses on the interest of the 10,000,000, Campo & Co. do not make this requirement; which difference, even if the proposal of Campo were acceptable in principle, could not be utilized by the government, provided Campo does not assure the realization of the important service for which the contract is made; so that, on the hypothesis of his proposals being accepted and preferred, the government then being obliged to refund to Lopez and associates the 15,000,000 of reals which they have advanced, with interest, could only rely upon scarcely five millions for expenses, which, during the month of October, must certainly amount to more than fifty millions;

Whereas, finally, the proposal of the signers of the provisional contract unites all conditions of admissibility and fulfills the conditions of public interest, which make that of J. Campo & Co. unacceptable, and fully assures the accomplishment of the lofty and patriotic purposes of the negotiation:

His Majesty the King, (whom God preserve,) at the suggestion and with the approval of the council of ministers, has been pleased to give his royal approval to the meeting held this day for the negotiation of the loan of from fifteen to twenty-five millions of dollars, in order to supply the wants of the treasury of the island of Cuba, declaring unacceptable the proposal presented by J. Campo & Company, and declaring that the only admissible and in every case preferable one is that contained in the provisional agreement of the 5th of August last, signed by Don Antonio Lopez, Don Manuel Calvo, the Marquis de Vinent, and Don Rafael Cabezas, and with the increase made and ratified by the same at the meeting; and ordering that in accordance therewith the necessary public document be at once drawn up and the final contract be executed without delay, in all its parts; to which effect the necessary orders will be issued by this ministry; which, by royal order, I communicate to your excellency for the proper purposes.

May God preserve your excellency many years.

Madrid, September 30, 1876.

LOPEZ DE AYALA.

Minutes of the public session held by the council of ministers in order to negotiate a loan of funds, under the guarantee of the customs-revenues of the island of Cuba, for the necessities of the war in that island.

The council of ministers having met in Madrid on the 30th day of September, 1876, at 3 o'clock in the afternoon, at the ministry of the colonies, I being present as director-general of finance ad interim of said department, acting as secretary, in order to receive and decide upon the proposals to advance a sum of not less than fifteen nor more than twenty-five millions of dollars, to supply the demands of the treasury and

of the war in Cuba, according to the royal orders of August 27 and the 27th instant, the meeting was opened by the president of the council of ministers, stating that proposals would be received until 4 o'clock in the afternoon. That hour having arrived, his excellency the president gave permission to any persons who might desire it to be present, and then stated that only two proposals had been received, one constituted by a provisional agreement of August 5, guaranteed by a new deposit of 15,000,000 reals, a draft for which had just been presented by Mr. Cabezas, and another, contained in a sealed document from Don José Campo & Co., likewise accompanied by their respective draft for $750, deposited in the general-deposit fund as a guarantee for their proposal.

Immediately his excellency the president ordered me to read the aforesaid royal order of September 27, which states the formalities to be observed on the present occasion, and also to read the provisional agreement of the 5th of August last. I then read the three following official letters:

I.

MOST EXCELLENT SIR: In view of the royal order, bearing date of yesterday, of which your excellency was pleased to send me a copy, a doubt arises in my mind which I beg your excellency to be pleased to solve.

Those intending to present proposals for an increase are obliged by article 3 to deliver previously $750,000, as a guarantee of their proposal. This grave measure, adopted one or two days before the holding of the meeting, would place us in a position different from that of the signers of the provisional contract should it not extend to them. These gentlemen have given an equal sum, it is true, but in the character of a loan, and fixing their guarantees, their interest, the precise time of payment, means of re-imbursement, and profits to be reaped by them, whereas the delivery on our part neither has that character nor those advantages nor any of those circumstances. Without seeking to avoid the responsibility imposed by the royal order of yesterday, I understand it to be obligatory upon all, and thus the signers of the provisional convention will neither be able to ratify nor increase it, even verbally, without depositing $750,000 in the deposit fund, in due fulfillment of the royal order of yesterday, since the contrary would argue another advantage in their favor, which the high sense of justice of the worthy government of His Majesty cannot grant.

I give this upright and faithful interpretation to the royal order, and although I suppose your excellency has foreseen this case, I have the honor to call your attention to it in the interest of the country and of the operation, and for the avoidance of serious difficulties which would involve an impairment of the public credit.

May God preserve your excellency many years.

Madrid, September 28, 1876.

J. CAMPO & CO.

His Excellency the MINISTER OF THE COLONIES.

II.

MINISTRY OF THE COLONIES.

Messrs. MANUEL CALVO AND RAFAEL CABEZAS Y MONTEMAYOR:

His excellency the Marquis de Campo, in a letter which I have just received, writes to me as follows:

(Here follows a transcription of what is inserted under No. 1.)

The considerations presented by the Marquis de Campo having been duly appreciated by the government of His Majesty, it has determined to lay the same before you, that you may state whether the $750,000 which you have advanced for the embarkation of troops, according to article 12 of the provisional agreement of August 8, are to be considered as a deposit and guarantee of the same agreement in case of its ratification, and on the same conditions as any other deposits which may have guaranteed other proposals, and if all that refers to the interest and repayment of these $750,000 is to be understood in case of the non-ratification of the agreement on your part, or of the presentation of another and more advantageous proposal.

The government of His Majesty has always believed that the money thus advanced was a guarantee of the agreement in case of its ratification, but this authoritative interpretation is necessary in order to exempt you from the obligation of making a new deposit.

May God preserve you many years.

Madrid, September 28, 1876. A. LOPEZ DE AYALA.

III.

To His Excellency Don ADELARDO LOPEZ DE AYALA:

In communicating to us by an official letter from your excellency, dated yesterday, the letter addressed to you by his excellency the Marquis de Campo, with regard to the

interpretation of the third rule of the royal order of the 27th instant, your excellency states that the government of His Majesty has always believed that the advance of $750,000 already made by the signers of the agreement of August 5 was a guarantee of the contract in case of its ratification, this authoritative interpretation being necessary in order to exempt us from the obligation of making a new deposit. Such an interpretation is authoritative and not to be doubted. Our advance is at an end, and the money delivered to the government now constitutes a real deposit, designed to serve as a guarantee in case of the ratification of the contract.

When the agreement of August 5 was discussed and signed the government of His Majesty firmly intended to commence recruiting at once, and diligently to make every preparation in order that the 24,000 men by whom the army in Cuba was to be re-enforced might embark in September and October, to the end that the winter campaign might be opened early and vigorously. The government therefore desired to be sure of the funds required for recruiting, and to secure those which were indispensable to enlist the entire number of troops needed, and to send them out and maintain them until the termination of the war, which is the patriotic object that it has in view.

The advance having been made, and knowing the result of the subscriptions in Cuba and Barcelona, His Majesty's government relied upon the material guarantee of the $750,000 which had been received, and upon the moral guarantee, which was still more important, of having fully secured the fulfillment of the conditions stipulated, and, moreover, upon the promise made to your excellency to continue advancing, during the month of October, a million and a half of dollars for the enlistment and embarkation of all the troops that are to be sent to sustain the integrity of the Spanish territory.

The royal order of the 27th instant, although it contained no reference to the moral guarantee upon which it relied in the agreement of August 5, and made no mention of the new advances of funds asked for and offered, demanded a simple material guarantee, equal in amount to that which we had given, which was the least that could be required, the question being to secure a service of such importance, the results of which may perhaps prove barren, not only from a failure in its fulfillment, but in consequence of a simple delay.

The interpretation given by the Marquis de Campo to the third rule of the royal order of the 27th instant is therefore entirely without foundation when he states that a new deposit of $750,000 should be exacted from us, as from those who now come, without antecedents in the case, without previous pledges, and without the capital already subscribed and disposed of to present proposals. So far from any privilege existing for us, the disadvantage is evident, since every one knows the conditions of the agreement of August 5, any of the conditions of which may be positively or apparently changed, whereas those who sign it are ignorant of the text and even of the nature of the proposals to be presented.

At all events, as the question is not to obtain more or less profit in a mere public service, but the performance of a patriotic duty of the highest importance, the undersigned, who will be very glad if it be thus realized, obtaining at the same time positive advantages for the state, thought that, although the claim of the Marquis de Campo is without foundation, they ought to avoid giving any cause for protests, unjustifiable though they be, by making a new deposit of $750,000, a draft for which they will present to-morrow, although not pledged to do so by the royal order of the 27th instant, the operation of which, we repeat, is highly disadvantageous for us, inasmuch as, representing, as we do, three parties, one in Barcelona, and another in Cuba, who have made their subscriptions on a definite basis, we are neither at liberty to change them, nor have we time to come to an understanding with the subscribers, being ignorant, as we are, of the proposals that may be presented.

Finally, we assert that, if the agreement of August 5 does not become a definite contract, on account of the admission of more advantageous proposals, we will have a perfect right not only to an immediate return of the new deposit, but also of the $750,000 already advanced, which now constitute a guarantee.

May God preserve your excellency many years.

Madrid, September 29, 1876.

MANUEL CALVO,
RAFAEL CABEZAS.

His excellency the minister of the colonies stated that he had felt much surprised that Mr. Campo, in a letter just read, said that he had only known for forty-eight hours the necessity under which he was of making a deposit of 15,000,000 reals in order to have a right to present his proposal, when, in an official conference held between his excellency, Mr. Campo, the under secretary, and the director of finance of this ministry, eight days before the publication of the royal order, he had been informed of the necessity of said previous deposit, and he did not then manifest any surprise or make any objections. The two drafts were then read, each being for 15,000,000 reals, which guaranteed the provisional agreement and the proposal presented, Mr. Cabeza

saying that, although he had stated that the 15,000,000 reals which the signers of the provisional agreement had advanced to the government might be considered as a guarantee, the said signers had decided to make, this day, a new deposit of 15,000,000 additional, in order to prevent any doubt of the legality of their representation in this matter. A communication was also read, bearing date of to-day, from Don Juan Llasera y Garrido, in which he abandoned the proposal presented by him on the 17th instant, because, in his opinion, the royal order of the 27th made notable alterations in the matter, and because he could not accept the condition of the provisional deposits remaining for the benefit of the state in case of a failure on the part of the contractor to fulfill the contract in any of its clauses, or in case of the final contracts not being made. The official correspondence between his excellency the minister of the colonies and Mr. Llasera was then read, in which the latter stated that he knew that the government required the deposit to be made before to-day, in consequence of which the said proposal was declared withdrawn.

A statement of his excellency Don José Emilio Santos, representative in Madrid of the Spanish Bank of Havana, was then read, in which he argued that the contracts for loans previously held between the Cuban treasury and the aforesaid bank should be considered at this meeting. These contracts, he said, gave to that establishment rights to the customs-revenue of the island of Cuba, and his excellency the president, without considering as accepted the facts or the conclusions of the statement just read, made, in the name of His Majesty's government, the following declaration:

"The government will reserve such part as may annually remain of the proceeds of the customs-revenues to meet the lawful obligations contracted by it upon said revenues with the Bank of Havana, when the expedientes now being prepared shall be terminated."

His excellency the president, in ordering the reading of the sealed document containing the proposal of Don José Campo & Co., declared that the signers of the provisional agreement were at perfect liberty to increase the amounts to be loaned by them according to article fifth of the royal order of the 27th instant, and Mr. Calvo, in consequence, ratified, in his own name and in that of his associates, the aforesaid agreement, asking that the fourth paragraph of the official letter printed above (which, together with Mr. Cabezas, he had yesterday addressed to his excellency the minister of the colonies) might be considered; in which paragraph the pledge is made to deliver to the government during the month of October next 30,000,000 reals; offering, moreover, to furnish on the 30th of the same month 30,000,000 additional to the governor-general of the island of Cuba, which sums, together with the 15,000,000 advanced by the signers of the contract, amount to 60,000,000 reals.

The signers of the provisional contract being asked by Mr. Campo how they would give this money, Mr. Calvo replied that it would be delivered on account of the first payment, and therefore without any interest.

His excellency the president declared that the provisional agreement, amplified in this manner, thenceforth constituted the proposal of Messrs. Lopez, Calvo, Vinent, and Cabezas. The proposal of Mr. Campo was then opened, and found to read as follows:

MOST EXCELLENT SIR: The very short time intervening between the publication of the royal order of the 27th of August last and the provisional agreement signed on the 5th of the same, and the still shorter one of the 27th instant, in which a guarantee of fifteen millions of reals is required in order to be present on the 30th, which is to-day, at the adjudication, have rendered it impossible for the undersigned to present greater advantages than those resulting from the following proposition, which Messrs. José Campo & Co., domiciled in this city, present for the objects of the royal order of the 27th of August last, and article 11 of the provisional agreement of the 5th of the same month:

1st. On the execution of the document of adjudication, he shall deliver $1,000,000 in cash, as an advance, without interest or security. When it loses this character of an advance, it shall form a part of the first installment of the loan. If, in consequence of any unfortunate event, no delivery of the guarantee shall be made by the government, the latter shall immediately return the aforesaid million of dollars, paying them in bonds of the floating debt of the treasury, at the current price, and at the rate of interest then paid.

2d. He also pledges himself to open credits to the amount of an additional million of dollars in Europe and America on the same terms. If, from causes over which the government has no control, it shall have been unable to take possession of the guarantee of the loan in order to make the first payment, these credits, if used, shall preserve the character of an advance, without interest, until the payment of the first installment, and they shall then form a part of the second payment or installment.

3d. The delivery of the loan shall take place in four installments, to be received by the government; the first when the society takes possession of the sum collected in the custom-houses, and it shall amount to $3,000,000, including the million of dollars in cash already advanced; the second, two months afterward, and it shall be

$4,000,000; the third, two months after the delivery of the second, and it shall be $1,000,000; and the fourth, at the expiration of three months from the delivery of the third, and it shall be composed of the remaining $4,000,000.

4th. This loan shall bear interest at the rate of 10 per cent. per annum, and it shall be paid in ten years, in equal parts, by means of the customs-revenues of that island, which shall be mortgaged for the fulfillment of all the obligations accruing to the government from the present proposal.

5th. The society shall also receive during the same period of ten years, 35 per cent. of the increase which may be obtained from the customs-revenues of the island over the present income, graduated according to the last six half-yearly periods. If the loan amounts to twenty millions of dollars, it shall receive 40 per cent., and if to twenty-five millions, 50 per cent., during the period for which the contract is made. The present customs-tariffs of the island of Cuba shall not be changed without the mutual consent of the government and the party to whom the loan is awarded.

6th. Of the amount yielded by the customs-duties of the island, there shall be retained every month the aliquot part sufficient for the amortization of the loan and the payment of the interest; and there shall be made, likewise, each month a liquidation and provisional distribution of profits, the final one being made at the close of each one of the ten years for which the contract is made.

7th. The party to whom the loan is awarded, and in his stead the anonymous society of credit which shall be formed, shall establish, with the concurrence of the government, the form for the organization of the management, collection, and control of the customs-revenues of the island of Cuba.

8th. Said society and its issues of shares, bonds, and other values of whatever kind, shall be forever exempt from any tax or impost, both ordinary and extraordinary.

9th. If it shall prove true that any part of the customs-revenues of the island are appropriated to the payment of obligations previously made with the Spanish Bank of Havana, the government will take the necessary steps, and to aid it the undersigned and the society, whenever peace shall be restored, pledge themselves to negotiate with the government a new loan, with the same security as the present, and no other, to be devoted exclusively to the said Spanish Bank of Havana, and to remedying the difficulties now afflicting the island of Cuba, using for this purpose the most efficacious measures.

10th. In payment of the cash received according to articles 3 and 4 of the royal order of the 27th instant, the exact fulfillment of the present proposal is guaranteed by means of 15,000,000 reals in real property, situated in Madrid, or by an equal sum in shares of the railways from Almansa to Valencia and Tarragona, at the price at which they are quoted at the Barcelona exchange, or in bonds of the state at the market-price.

11th. The government reserves the right to annul the present contract at the expiration of the fifth year, or at any time thereafter, giving the society six months previous notice, and paying it in cash the amount which may be due in liquidation, together with 10 per cent. of this sum as an indemnity. The government shall submit the present agreement to the Cortes as soon as they shall assemble, in order that they may give the guarantee of the nation for the principal of the loan and the payment of the amortization and interest. In case this contract shall not receive the legal sanction referred to during the present year, it shall be null and void *de facto* and *de jure*, and the government shall be obliged to pay in cash the amount due in liquidation, and also to pay damages.

Madrid, September 30, 1876.

J. CAMPO & CO.

This paragraph having been read a second time, paragraph by paragraph, in order that the ministers as well as the party interested might make remarks, as provided in article 5 of the royal order of the 27th instant, Mr. Campo explained that the credits mentioned in paragraph second would be in gold. His excellency the minister of the colonies and Mr. Cabezas made the remark on paragraph 3 that the signers of the provisional agreement understood that it was a clerical error, when, in said agreement, the *sum collected* in the custom-houses is spoken of, and that it should say the *collection;* and this explanation was unanimously agreed to.

The same minister of the colonies said that, it being necessary to fix the time when the parties whose proposal should be accepted might begin the performance of the service, he asked the signers of both proposals if they could undertake it as soon as the government could give it to them, even before the close of the month of October, to which Messrs. Campo and Cabezas replied in the affirmative. With regard to article 12 of the proposal of Mr. Campo, which refers to the submission of the contract to the Cortes, his excellency, the minister of the colonies, said that he called the attention of Mr. Campo in order that he might make the necessary explanations with regard to the form in which it was drawn up, since, in addition to other misunderstandings, it might be understood that an effort would be made to exert a certain pressure upon the Cortes.

His excellency the President added that the signers of the provisional contract, as appeared in their fourteenth article, agreed that the government should give an account of the contract to the Cortes in order that they might approve or disapprove its conduct; but that the said contracting parties being firmly and definitively bound to comply with all the terms imposed by it whenever the government should require such compliance, that the government, on its part, considered itself, as had been all its predecessors, without exception authorized by the special regimen which still exists in the island of Cuba to receive loans upon their revenues, and to modify and even change the management of the same, according to the requirements of circumstances; that the proposal of Mr. Campo and company was not, according to its twelfth article, definitive, since its efficaciousness remained dependent upon the previous appropriation of the Cortes, which, in the present case, was unnecessary; that the said article 12 of the proposal of Campo and company tended, moreover, to settle indirectly a question of political order, such as was that of the date of the re-assembling of the Cortes; and finally, that the government, which could receive advances of funds on the local revenues of the island of Cuba, could in no wise pledge the guarantee of the nation for capital received as a loan, this being a prerogative of the Cortes and of the King, in virtue of which it had only offered, in the provisional agreement, to ask such a guarantee of the Cortes, leaving that body entirely at liberty to grant or refuse it as it should deem proper, and that subsidiarily, and only in case that at any time the amount yielded by the customs revenues of the island of Cuba should not be sufficient to cover the interest and amortization of the legal advance or loan in question; and that all this should be remembered by the gentlemen signing the proposal, for the proper understanding of their requirements in so grave a matter.

The discussion having been opened on this point, Mr. Cabezas said that the signers of the provisional agreement had always understood that the contract was final, and that, as to asking the national guarantee for the amortization and interest of the advance, it would only be in case the revenues of all kinds of the island of Cuba should at any time not be sufficient to cover it.

Mr. Arnús asked what would be the situation of the shareholders if the Cortes should not approve the agreement, and the President again stated that, without giving any assurance, he hoped that the Cortes would furnish the guarantee which would be asked of them, and approve the conduct of the government, but that the contract which it was proposed to execute would always be valid on the ministerial responsibility, subject to the supreme rescissory powers which our administrative law recognizes in the state. In view of these explanations, and after some remarks by Mr. Campo, he withdrew the second part of the twelfth article of his proposal.

It now being 6 o'clock in the evening, his excellency the President declared the point sufficiently discussed, and, according to article 7 of the royal order of the 27th instant, all those present, excepting the ministers, withdrew from the room.

At half past 8 o'clock I was summoned by his excellency the President, from whom I received the order, which was immediately obeyed, to notify the parties interested that the government of His Majesty, after lengthy deliberation, had unanimously agreed to accept, as the one most advantageous to the general interest of the state, the proposal, amplified as aforesaid, of Messrs. Lopez, Calvo, Marquis de Vinent, and Cabezas.

This closed the meeting for the execution of this service.

In testimony whereof I signed the present minute with the approval of his excellency the President.

DANIEL DE MORAZA,
Secretary.

Approved.

CÁNOVAS DEL CASTILLO.

No. 253.

Mr. Adee to Mr. Fish.

No. 336.] LEGATION OF THE UNITED STATES,
Madrid, October 10, 1876. (Received October 26.)

SIR: My No. 321 will have made you acquainted with the probable dispatch to Cuba of General Martinez Campos. It was, however, at that time uncertain, and remained so until yesterday, whether he would go out as governor-general in substitution of General Jovellar, or simply as the commander-in-chief of the army of operations. It was gen-

erally understood that, in reporting the surprise of Las Tumas, General Jovellar tendered his resignation, but that the government, after consultation with General Martinez Campos, proposed that the latter should go in an exclusively military capacity, leaving General Jovellar at the head of affairs. It is certain that a delay of nearly a week has occurred, taken up by the constant interchange of cipher telegrams with Havana, at the close of which the appointment was definitely announced, and is confirmed in the *Gaceta* of to-day, of Captain-General Don Arsenio Martinez de Campos to be general-in-chief of the army of operations of the island of Cuba; while, at the same time, it is officiously denied by the ministerial press that General Jovellar has ever offered his resignation.

This experiment of an almost complete separation of commands in Cuba is apparently a step in the right direction. You will, of course, recall how often, during the reign of Don Amadeo, and later on through the year of the republic, minister after minister admitted the necessity of confining the exercise of civil power in the Antilles to the hands of a civilian, under the exclusive control of the ministry of Ultramar, leaving the military power equally limited in the person of an officer representing the war department. And although the present step does not go so far, it is, at least, encouraging.

It remains to be seen how the two generals will pull together in the complex double harness of Cuban administration, and with such a load behind them. Although rivals, it is in a generous sense, and not as antagonists. They are of equal rank, and have alike attained the highest military honor which can be conferred in Spain, that of the Grand Cross of San Fernando. In the campaigns of the Centre and of Cataluña, General Martinez Campos served equally well, now as the subordinate, now as the peer, of General Jovellar. He is essentially a soldier, not a man of politics or of government. He has the desire and the genius to win, and he generally does it. He is comparatively young, and is ambitious for military fame, well knowing that other honors fall thick in Spain on the successful soldier. I think he goes to Cuba with the honest resolve to end the war if it is within human skill to end it; while the memory of Seo de Urgel and the valley of the Baztan give him a prestige which no general has as yet brought to the task of conducting operations in the field in Cuba.

The government, too, seems equally determined to end the war. It has "staked its life upon the cast," and must "stand the hazard of the die." Its recently contracted loan of $15,000,000 is the last which may be looked for while Cuba hangs in the balance. It is pushing forward re-enforcements with unexampled energy. While I write, soldiers are passing to the southern railway-station to take cars far Valencia. By the 26th of this month the whole re-enforcement of 24,800 will be on the way. And it is said, and with general credence, that the government is meditating the increase of the total force now sent out to 40,000 before the end of November—the suggestion, as report says, of General Martinez Campos. But this I cannot vouch for. Another such effort as the present one cannot reasonably be expected or even hoped for from Spain in her actual circumstances. And the result, it is felt, must be commensurate with the effort. It will not do for Spain merely to hold her own to the west of the *trocha* and on the coasts during this campaign; she must *win* or face the consequences.

A translated leader from last night's *Política* will show you the current of opinion of the press. You observe that it attaches, as most of them do, equal importance to the change of command and to the loan.

With respect to the latter, I cannot help but note the prominence given to the exclusion of foreign capital from participation in its benefits, and remember the unsuccessful attempt of the bidders to place the loan in London and in Paris, as heretofore reported to you.

I have, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Editorial article on Cuban affairs from La Politica, Madrid, October 9, 1876.

THE SEPARATION OF COMMANDS, AND THE CUBAN LOAN.

Some opposition papers are surprised that the government has adopted the measure, which they regard as grave and transcendental, of separating the commands in Cuba, leaving General Jovellar at the head of the general government of the Great Antilla, and giving to General Martinez Campos the superior command of the army, and the direction of the operations of the war. On this point it is said that a conservative party should not have adopted a measure which has hitherto been the constant aspiration of the advanced parties, and they inquire if this division of commands will be effected as an exception, or if it shows a variation in the system of government of Cuba.

As we are not the government, nor in the secrets of the future, we do not know whether the separation of commands will be an exception or a change of system; what we are able to say is, that at the present time it meets our approbation from all points of view; and let it not be said to us that it has been the aspiration of the advanced parties, because, in the first place, in the question of Cuba there have, generally speaking, been no other parties than Spaniards; in the second place, the radicals and the republicans have been in power and have not carried out this, their supposed aspiration; and lastly, if the step is a reasonable one, let it come from whence it will, it may be well accepted by a conservative government, because conservatism does not signify immobility, neither does it reject progress when it is slow, well pondered, and advantageous.

When, in the epoch of the viceroys, three and sometimes six months were needed in order to send communications to America and receive them from thence, the unity of the command and the powers of the government in one sole hand was necessary. But, now that in fifteen days we go to Cuba, and in five minutes, by the electric wire, news is transmitted and received, conferences held with the Antillean authorities, consultations effected, and the most arduous matters readily decided, the concentration of powers is not so necessary, and the division of labor, a general rule of good administration, may find advantageous application in Cuba as everywhere else.

In these circumstances, we can do no less than applaud the patriotism of Generals Jovellar and Martinez Campos. The former places himself at the disposal of the government for whatever post it may assign to him; and, not having the immediate care of the operations of the campaign, he will be able to devote himself to other and most important cares of government, and to more efficiently facilitating the resources which a general-in-chief in the field needs at the points and in the manner which befits his plans. For his part, General Martinez Campos abandons the important position he holds in the peninsula; he responds to the call of the nation, and gives a proof of abnegation and disinterestedness, which ought to be very highly appreciated. Once in Cuba, and not having more to occupy him than the war and its connections, his military talents will shine as brilliantly as ever, and we doubt not that they will yield to us the happiest results. As in the Centre and in Cataluña, the two generals will mutually aid each other in Cuba, and we doubt not with the same brilliant and satisfactory result.

We, therefore, approve without reserve the solution which the government has given to this matter, whether as an exception or as a permanent system. The exception in the present case is justifiable. Of the permanent system we can treat later on, and for the present we have nothing to add to what we have said.

The government during the month sends, as it has promised, its 24,000 men. The draft to complete this number was made day before yesterday with the greatest order in the ranks of the army, and those whom fortune has designated to cross the seas in defense of the national integrity are making ready to fulfill their duty as Spaniards and as brave and disciplined men.

What a contrast between the strength which the government now has and that of other governments, which did not dare to undertake a draft on a much less scale when General Concha asked for the dispatch of 6,000 men!

So then, when these powerful efforts are made by the government; when it is needful to display activity and to prepare everything for military operations and for the indispensable sustenance and the highest possible well-being of those who go to risk their lives in the defense of their fatherland, the more or less per cent. at which it has been practicable to realize a loan which it was urgently necessary to realize is not for us, nor do we think it is for any one, a subject of criticism.

The government, in the matter of the Cuban loan, has followed a standard of judgment which we applaud, that of realizing it by means of Spanish capital and a Spanish company, thus giving no participation or power of intervention to foreigners in the customs-revenues of Cuba. Although foreign capital might have offered, with respect to interest or in other points, greater advantages than the proposers of the accepted contract, still the circumstance of their being foreigners, and of the customs-revenues being in question, would have stayed us. The loan being adjudicated to Spanish houses, none but Spaniards taking part in the collection of the Cuban revenues, the use of the funds necessary for the transportation and equipment of the troops having already commenced, the expedition suffers no delay of any kind; in the early part of November the expeditionists will disembark in the Great Antilla, and the final campaign will be carried on with vigor.

The duty of all good Spaniards is, then, in this question, to lend their aid to the government for the conclusion of the war. If there is any improvement to be made in the admitted loan-contract, the Cortes will investigate it; and the deputies, finding their inspiration in their patriotism, will emit all due observations, and the government will ably answer them all.

No. 254.

Mr. Adee to Mr. Fish.

No. 344.] LEGATION OF THE UNITED STATES,
Madrid, October 13, 1876. (Received October 30.)

SIR: I have not reported to you the progress of the religious question in Spain since my No. 277 was written, just a month ago, partly because the acrimonious discussion of the subject had become so belittled by the influences of party, prejudice, and personality as to lose much of its real and effective merit, and partly because it seemed probable that the whole matter would soon reach one of those halting-places, as it were, where a fair and comprehensive view of it could be obtained.

The press will have amply acquainted you with the pitifulness of the issues presented for debate, such as whether a school-mistress in Minorca had been rebuked for walking in public with several little girls of Protestant families; whether a peddler in Valladolid had been hindered from crying Bibles for sale in the public streets; whether the subgovernor of Minorca had entered a room habitually used for dissident worship, or only a school-room used occasionally for such worship; and whether the offending sign-boards in Madrid had been partly blotted out by the authorities with or without the consent of the pastors. Several marked articles which appeared in the foreign press, and in which these pettinesses were somewhat sharply commented upon, produced the natural and perhaps not over-beneficial result of merely irritating the sensibilities of the public and the government.

Finally, the representatives in England of the religious works established here under English control petitioned the secretary of state for foreign affairs to exert influence with the government of Spain to the result of being advised by Lord Derby to procure the opinion of a competent Spanish lawyer as to the true meaning of the eleventh article of the new constitution, on which the dispute really turned.

This charge was intrusted to the agent in Madrid of the British and Foreign Bible Society, the Rev. Mr. Corfield. This gentleman had the best legal right of complaint of any of the foreign propagandists, inas

much as he keeps a shop for the sale of Bibles, and pays the regular trades-tax (*contribucion industrial*) for the privilege of carrying on his trade, notwithstanding which his sign-board, which simply said "Depositary of the Holy Scriptures," was one of the first to be expunged, to the grave prejudice, as Mr. Corfield maintained, of his lawfully-licensed business. Mr. Corfield with much sagacity selected, for the purpose of consultation, Don Manuel Alonso Martinez, a jurist of high repute, formerly minister of grace and justice in 1874 under General Serrano, and one of the commission of notables charged with preparing the draft of the present constitution.

The interrogatories propounded to him were: Whether a duly-licensed vender has a right to announce by sign-boards the objects he is authorized to sell; whether itinerant venders have the right to cry the wares they are licensed to sell, (in this case Bibles;) whether, the inviolability of places of worship being proclaimed, it is lawful to denote their object, when non-Catholic, by means of undenominational inscriptions, such, for instance, as this, "Church of Christ;" and, lastly, by what *right*, basing its action on the words "public manifestations," employed in the eleventh article, has the government prohibited sign-boards referring to dissident worship or propaganda, and forbidden the public crying of Bibles in the streets?

To these inquiries, or rather to the general spirit of them, Mr. Alonso Martinez has replied in a well-written opinion, in which the eleventh article of the constitution is analyzed with much detail. A translation of this opinion is hereto appended for your information.

You will observe that, with respect to inscriptions denoting a place of worship, Mr. Alonso Martinez is of opinion that, while they are logically admissible, yet no one can rightly accuse the government of a constitutional infringement in prohibiting them; and that, in so far as concerns the trade in Bibles, he relegates the whole matter to the law for the regulation of the press, yet to be drawn up in conformity with the thirteenth article of the constitution.

I do not know that it is in place for me to follow or comment upon the reasoning of Mr. Alonso Martinez in his analysis of the letter and interpretation of the spirit of the much-disputed eleventh article. He had a large share in drafting it, if indeed it was not, as is said, due to his own pen, and therefore no one is more fit than he to elucidate its obscurities. On the one hand, the explanations given in the Senate and Congreso by the adherents of the government, and the bitter opposition of the ultramontane party to its "mistaken" and "un-Catholic" liberalism, as they said, would seem to invest the controverted article with all the tolerance and liberty claimed for it in some quarters. And, on the other hand, adopting Mr. Alonso Martinez's proposition as to the necessary *elasticity* of constitutional precepts in order to allow of extreme political parties governing within their limits, it seems equally clear that the letter of the article is capable of a far more restricted construction than that which is placed upon it by the government presided over by Mr. Canovas del Castillo.

It is not to be forgotten, in looking at these points, that the phrase "*ceremonias ni manifestaciones públicas*," according to the authoritative dictum of Mr. Alonso Martinez, has a more extended scope than was generally thought, in that the adjective *públicas* is used by him only to qualify *manifestaciones*, leaving *ceremonias* to stand alone and unqualified; that is, to turn the idea into English, the sense is not of the prohibition of *public ceremonies and manifestations*, but of *ceremonies or public manifestations*. And it may be that, in some future party change in Spain,

room may be found for discussion as to the precise line of demarkation between the exercise of the *culto*, (or simply adoration, reverence, worshipful homage,) which is allowed, and the practice of *ceremonies*, which is prohibited.

It is probable, however, that those who anticipate word-quibbles of this character do but borrow needless trouble, and that the larger views will prevail, and continue to prevail, which grant practical inviolability to dissenting temples and cemeteries, and which admit of the propaganda of opinions and religious belief, within proper limits, to be fixed by special laws.

I have, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Opinion of D. Manuel Alonzo Martinez on the question of the interpretation of article 11 *of the Spanish constitution of* 1876.

OPINION.

I. After mature consideration of the terms in which the inquiry is propounded, and also of the text of the constitution, I proceed to set forth my opinion with the sincerity and frankness demanded alike by the sacredness of the subject and by that of my professional duties.

I must be permitted to invert the order of the questions proposed to me by the society, because it is logically necessary to do so inasmuch as the two first interrogatories in reality rest upon the third one.

In order to ascertain whether it is or is not lawful to place upon the front of a place of worship a sign-board announcing its object, it becomes needful to analyze, both in letter and in spirit, the eleventh article of the Spanish constitution.

The first paragraph of that article leaves no room for doubt. It declares, in effect, in the clearest manner, that the state, far from being godless or indifferent, maintains a religion in our midst, namely, the Catholic faith, which is that professed by the immense majority, almost the totality, of Spaniards; and, as the consequence of this declaration, it in terms positively binds the nation to the obligation of maintaining the worship and the ministers of the official religion.

The second paragraph is equally clear. The only expression therein, which, on certain occasions, might possibly seem ambiguous, and give rise to doubts and controversies, is this: "Saving the respect due to Christian morality;" but fortunately this saving clause, which does not extend to any of those who recognize the authority of the Bible, and live in submission to the precepts of the decalogue, has still not any, even the remotest, application to the confessions which admit the divinity of Jesus and believe in the Holy Gospels. Bearing, therefore, in mind the position and aims of the society which proposes the inquiries, we may well forego analysis of the first phrase, and simply say that, in so far as it and its kindred organizations are concerned, the second paragraph of the eleventh article prohibits the government of His Majesty from molesting any one for his religious opinions or for the exercise of his respective form of worship, (*culto.*)

It is not so easy to fix with absolute certainty the full reach or scope of the exception, or rather limitation, contained in the third and last paragraph. In examining this, it is my duty to consign to oblivion the share I had in drawing up and approving the same, a work which I have certainly no cause to repent of. Political science is not purely speculative; it finds its inspiration in realities and exists only by yielding to circumstances, without which mutual concession nations would perish.

This statement will suffice to ward off any unjust criticisms, and we now proceed to the main point, namely, the grammatical analysis of the paragraph in question.

It runs thus: There will not be permitted, *nevertheless*, other ceremonies or public manifestations, *other than those of the religion* of the state."

That this paragraph is a limitation of that which immediately precedes it, there is no doubt. This is shown, not merely by its sense, but even by its construction and by the use of the adverb "nevertheless," (*sin embargo.*)

But does the third paragraph modify and limit the whole of the second paragraph, or only a portion of it? To put it more clearly, does the prohibition of ceremonies and public manifestations limit only the liberty conceded in the second paragraph for the exercise of the form of worship, or is it also a limitation of the liberty of religious opinions?

The text being grammatically examined, the solution of this question would be clear if the framers of the constitution had confined themselves to the use of the word "ceremonies," without adding "public manifestations." "Ceremonies" have nothing to do with the emission and propaganda of opinions, but the word "manifestations" is more indefinite, more vague, and, by reason of its very vagueness, it is capable of diverse interpretations.

"Ceremony," according to the Dictionary of the Academy, is an external act or action, regulated by law, statute, or custom, for the purpose of rendering honor to divine things, while "manifestation" is, in its etymological sense, the declaration and bringing to view of anything which was previously occult and concealed, and in its political sense the public expression of a sentiment or of an opinion. There is room, therefore, for the possibility that some might seek to give to this constitutional article a restrictive interpretation, alleging, first, that if Spanish legislation establishes as a rule of interpretation, even in the case of wills made by ignorant rustics, that words must be understood simply, clearly, and as they stand, with much more reason must this principle be applied to the interpretation of laws, especially as it is to be presumed that the maker of the law has perfect knowledge of the Castilian tongue and of the nature of each one of its words; secondly, that for this same reason it is not allowable to assume that the words "ceremonies" and "public manifestations" are synonymous, since on such hypothesis the law-maker would have fallen into a useless redundancy; and, thirdly, that if, according to the Dictionary of the Academy, which is the supreme authority on the subject, "manifestation" is the declaration or bringing to view of something previously concealed, or the public expression of a sentiment or an opinion, it appears logical to infer that the third paragraph limits the totality of the second, or, what is the same thing, that it prohibits absolutely the public manifestations, as well of opinions as of forms of worship, which dissent from the official religion. But against such an interpretation there present themselves two equally strong and decisive reasons: the one founded upon what logicians call the *argumentum ad absurdum*, and the other on the principle of contradiction, the irrefragable basis of human positive knowledge.

It cannot, indeed, be imagined that the third paragraph alludes to the liberty of religious opinions, without the whole constitutional article immediately becoming contradictory and at variance with itself. To be convinced of this, the best way is to set the two propositions side by side in order to contrast them. The first proposition, "No one shall be molested in Spanish territory for his religious opinions." The second: "There will not be permitted the manifestation, the bringing to light, the declaration, or the public expression of other religious opinions than those of the religion of the state." The conflict, the contradiction, of these two propositions is so evident that any commentary on this point seems to me to be needless; it is enough to read them and to compare their phraseology in order to carry conviction to the mind. Now, then, the supreme rule of criticism and of legal interpretation is that the diverse clauses of a law be explained in such a way as not to contradict one another, because contradiction is the *one thing* impossible. It assumes in the legislator not merely ignorance but unsoundness of mind.

No less patent is the *argumentum ad absurdum*. In effect, were we for an instant to imagine that the third paragraph of the constitutional article prohibited the manifestation of any religious opinion contrary to the dogmas and the discipline of the Catholic, that is, of the official, church, the result would be that the first part of paragraph 2 of Article XI is superfluous and worse than useless; and that, strictly speaking, what the fundamental law (*i. e.*, the constitution) does is to authorize the establishment of the tribunal of the inquisition. The proof is clear. On such hypothesis, what would the second paragraph of the article guarantee? Solely the right of holding beliefs different from the Catholic faith, *on condition of not expressing or manifesting them*. But we Spaniards have always possessed this sacred liberty, in common with all other men, for there is no human power, not even that of the inquisition, whose action reaches to the inner depths of human consciousness; and could anything be more absurd than to suppose that the government of His Majesty and the majorities of the two co-legislative bodies—partisans of religious tolerance—should have so deeply and for so long a time perturbed the country, giving daily battle to a more or less numerous minority which tenaciously defended the restoration of Catholic unity, interrupted since 1868, only to obtain at last, as the result of their victory, the legal prohibition of the emission of opinions contrary to Catholicism, and, therefore, the right of the public power to persecute and punish him who emits them? No; the eleventh article guarantees the liberty of the emission of religious thought. The care with which the law-maker used the word "opinions," instead of "beliefs," is to be noted. "Belief," according to the dictionary, is the faith, the assent, and credit which are given to any thing, all which is believed or ought to be believed concerning religious faith and the profession thereof; while "opinion" is the conclusion, the views, the judgment formed about anything. That is to say, that belief is, above all, a *psychological* phenomenon, an internal act, while *opinion* more especially designates something manifest or exter-

nal; for which reason we say "to hold opinions," "to be wedded to one's opinions or views," "to ask and give an opinion," "to form an opinion," &c. In fine, opinion is belief manifested and, so to speak, *externalized*. When the eleventh article says that no one shall be molested in Spanish territory for his religious opinions, what it does is to sanction the right of freely emitting ideas of this kind, subject, however, to the press-laws.

But it will be said that there is a redundancy and misuse of language in the article, seeing that the law-maker employs jointly and indiscriminately the words "ceremonies" and "public manifestations," which have distinct meanings according to the Dictionary of the Academy. Even though there were redundancy, such a defect should be overlooked rather than accept the contradiction and the absurdity, but fortunately there is an easy answer to that argument.

The words "ceremonies" and "public manifestations" are certainly not synonymous, but they both refer to the form of worship, and not in any way to religious opinions.

They were both employed, not only on account of the necessity of seeking a formula of compromise between distinct political schools, but also—and this is the main point in a juridical opinion—because the too concrete sense of the word "ceremony" did not satisfy, by reason of its very precision, the need felt by all that the belief of almost the totality of Spaniards should be respected. We can, in effect, readily understand that confessions and churches different from the Catholic may offer worship to divine things by external acts which are not "regulated by law, statute, or custom;" and to prevent or provide against the intentional or unintentional performance of such acts, the legislator did not content himself with prohibiting "ceremonies," but he added "or public manifestations," which it was as easy, nay, easier, to foresee would wound the sensibilities of Catholics, and which, not being sanctioned by law, statute, or custom, might appear to be imprudent provocations or be attributed to hostile intentions and doubtful motives.

But if the Cortes carried their foresight to such a point in their zeal and solicitude for the Catholics and in their desire to provide against and avoid public disturbances arising from religious causes, it is no less clear to my eyes that it was their design to secure liberty of thought, and that the text only refers to the manifestation of the form of worship, (*el culto,*) to the public manifestations of religion *as a church*, and in no way to individual religious opinions, which fall entirely under the jurisdiction of Article XIII and of the press-laws.

This explains a phrase repeatedly used in the periodical press, and even in the Cortes, as the synthetic expression of the intention of the constitution. It has been said that the constitution guaranteed the inviolability of the place of worship, (*templo,*) of the cemetery, and of the book; and it is true. "No one shall be molested in Spanish territory for his religious opinions." Herein lies the inviolability of the book, in the same way as it is guaranteed for ideas in Article XIII of the same constitution, and as it presumably will be developed in the press-laws. "Nor for the exercise of his respective form of worship." Here we have the inviolability of the temple and of the cemetery. This inviolability is not infringed by the prohibition in the third paragraph of ceremonies and manifestations of dissenting forms of worship in the public way, because the interior of the church and cemetery remains always inaccessible to the action of the public authorities, and, therefore, inviolable.

II. The right meaning of Article XI being thus fixed, it seems to me easy to give an answer to the concrete questions contained in the inquiry propounded. "Is it lawful to place upon the façade of the place of worship a sign-board announcing its object, as for example, 'Church of Jesus?'" Common sense inclines to the affirmative; but the constitution maintains profound silence on this particular and definite fact, which is not to be wondered at, since a constitution never can nor should be casuistical. It is not to be forgotten, first, that a fundamental law is confined to the enunciation of principles, the essential basis of the organization of the state, leaving their development to secondary laws and to the regulations of the government; and, secondly, that a constitution is almost always the result of great mutual concessions on the part of the conflicting political schools.

For both these reasons constitutional precepts cannot but possess a certain elasticity which may permit the different political parties to govern within its limits. There is room therein to follow out a bad policy, without failing in obedience thereto, or, at least, without violating its letter; one government may be prudent and another may not be so; this one may be broad and liberal and that one narrow and restrictive. What is clearly deducible from the text of the constitution and from the discussions in the two chambers is that it was sought to assure the inviolability of the place of worship and the cemetery; but beyond this limit, which no one may pass without becoming guilty of a violation of the constitution, the latitude of the text allows to the successive ministries great freedom of action, without other counterpoise than the supervision and the censorship of the King and of the Cortes.

The foregoing does not in any way imply that any one particular interpretation is not more conformable than another to the spirit of the fundamental law. Thus, for

example, in the concrete case presented to me it appears to me that, since the constitution permits dissenting forms of worship and authorizes the erection of temples, the natural sequence is that it would admit of placing on the façade thereof an inscription announcing its object. This, in my judgment, possesses various advantages; among others, that of pointing out to the faithful of each confession the church in which they are to pray, and that of preventing a Catholic from mistakenly entering a Protestant place of worship, or a Protestant from entering a Catholic one. Nay, more, there cannot well exist a *collective* worship, a place of worship, and, in fine, a *communion of the faithful*, without a system of advertisement, without a certain mode of publicity, without some kind of proceeding which shall permit the faithful to hold communication among themselves and with their ministers, unless it be proposed to reduce them, even in populous cities daily visited by strangers, and for the most insignificant acts of their worship, to the somewhat primitive method of leaving special notice at their dwellings, (*avisos á domicilio.*) And, at any rate, what can there be to scandalize or mortify the Catholic mind in having an inscription saying the self-same thing which is already proclaimed, with more or less of vagueness, by the external form of the place of worship, and which is explicitly declared by the constitution of the state, well known to all Spaniards? In my eyes this is too exaggerated a scruple, to which might be applied those familiar lines:

"Needs must throw away the face,
For the mirror is not to blame."

I must, nevertheless, declare that in this respect the actual government has been honest and consistent, because, during the discussion of the constitutional project, and moved by reasons doubtless worthy of all respect, it even then announced its intention to permit the *outward form* of the temple and to forbid *inscriptions*, for which reason no one can justly say that he has been deceived.

To sum up, I take it that it is more conformable with the spirit of the text of the constitution to permit than to prohibit an inscription announcing the purpose of the place of worship; but the constitution being silent, and there being no secondary laws or regulations prescribing anything whatever in this respect with regard to the orders complained of by the person who consults me, every one is free to judge as he sees fit of the prudence and of the more or less liberal criterion of the government, but no one can reasonably accuse it of having infringed the fundamental law of the state.

III. I combine the two first interrogatories, because they are both answered by the same principles and with identical judgment. Meanwhile, let it be here understood that I repeat what I have said in response to the foregoing interrogatory. The constitution has not entered so far into detail as to declare whether it is or is not lawful to announce, by word of mouth, by posters, or by means of itinerant dealers, or lastly, by means of a sign-board over the door of a warehouse, depot, stall, or book-shop, the sale of the Holy Scriptures. These details are only proper to the ordinary law, or to regulations, according to their respective importance; and I am even prepared to add that, if the whole matter be not left to the prudence of governments, these should at least be allowed a certain latitude for appreciating the circumstances of each case, and for the time being.

I confine myself, therefore, to stating, first, that the secondary laws destined to develop the principles laid down in the constitution do not yet exist; and secondly, that the license and the payment of the industrial contribution might authorize an administrative claim for re-imbursement or indemnification of damages, but cannot restrain the powers pertaining to the government in this matter.

And I would here bring this opinion to a close, were it not for the necessity which I feel of dispelling a very widespread error, under which I think the person who consults me is laboring too. In my judgment, at least, the question to which the two first interrogatories refer, is not decided by the eleventh article of the constitution, but falls entirely within the jurisdiction of the press-laws.

An inscription on the outer wall of a place of worship may doubtless pass for a manifestation of the worship or of the religion, considered not as an idea but as a church; and in this supposition it may be permitted or prohibited, according as a broad or restrictive interpretation be given to the eleventh article, so often mentioned herein. But the sale of books, even though they be Bibles, is not an act of worship, but is doctrinal propaganda, and has already been shown. The third paragraph of the eleventh article of the constitution is not applicable to the diffusion of ideas, but only to the manifestation of the worship or of *religion as a church*.

It is clear that the Cortes and the government, in preparing the law for the press, can do no less than propound to themselves this problem, namely: How far the declaration made in the eleventh article, that the state in Spain possesses an official religion, pledges them to adopt certain precautionary measures, which shall not, however, interfere with the liberty of religious thought.

It is, likewise, not to be doubted that, in the measures to be taken for the protection of the Catholic religion, there must be room for the two extremes; that is, for different degrees of such protection, although without overstepping the maximum limit laid

down by the fundamental law in the following words, which, in accordance with current usage, we might style as "sacramental:" "No one shall be molested in Spanish territory for his religious opinions."

The conclusion, therefore, is that, although the eleventh article must necessarily influence the phraseology of the law for the press, and the regulations therefor exerting in this way an indirect and remote action on the solution of these two interrogatories propounded to me, they cannot, in a *direct* or immediate way, be resolved except by *legislation for the press;* that is to say, by the first paragraph of the thirteenth article of the constitution of the state and by the law to be promulgated for its application and development. I have given my opinion as a jurisconsult, and not in any other sense whatever. I have never presumed to be infallible about anything; and in this question I fear that my participation in the preparation of the constitution may fascinate me and lead me into error, instead of being a guarantee of soundness of opinion; but I could not refuse the assistance of my profession to him who consults me, and I fulfill my duty in frankly saying to him my understanding of the matter, even at the risk of being mistaken.

MADRID, *October* 4, 1876.

L. MANUEL ALONSO MARTINEZ.

No. 255.

Mr. Adee to Mr. Fish.

No. 371.] LEGATION OF THE UNITED STATES,
Madrid, October 25, 1876. (Received November 13.)

SIR: The religious question here seems to have reached another halting place, in the publication of two eagerly-expected royal orders, dated the 23d instant, one of which approves the action of the subgovernor of Minorca, and the other is a full and ably-written exposition of the standard of interpretation fixed for the eleventh article of the constitution by the government of Mr. Cánovas del Castillo.

It does not seem to me worth while to translate the first of these two papers, as the issue involved was quite limited, and the broader deductions of the government on which to base a rule of uniform action are embodied in the second order, of which I have prepared a careful translation for your perusal, which is hereto appended with the original.

The discussion in the press has been for some time working up to the point now reached, although on a rather narrow footing. The general principle of toleration as one of the bases of modern society seemed to be overlooked, and the debate went on as though the issue was whether or no English subjects (who are mainly interested in the question) had any right to claim toleration on the ground of like or superior toleration in England. In this aspect of the question, the Politica two nights ago triumphantly disposed of the argument by reprinting in English the text of the proclamation of the Queen, dated June 15, 1852, prohibiting wearing of religious habits, or the performance of any religious ceremony or demonstration, by the Roman Catholic clergy or people in the streets.

The royal order now published by Mr. Cánovas accomplishes one marked result, in completely separating the church from the schoolhouse; and while conceding to the former full inviolability and even protection within its walls, it brings the latter under the secular working of the existing educational acts. This result was a logical necessity of the issue presented at Mahon. The governor of that city, or rather, to give him his right title, the subgovernor of the island of Minorca, was charged with having entered a hall in which a number of dissenters were assembled on a week-day evening, and having commanded that singing then in progress should cease. The point on which the whole

question turned was whether the hall in dispute was used for the secular purpose of instruction or for the religious purpose of worship; and the royal order annexed decides that it was not a church, but a school-room; that the singing complained of was not religious, but merely a mnemonic device for fixing the multiplication-table and verbal conjugations on the minds of the pupils; and that the subgovernor had not infringed any law or acted unconstitutionally in doing as he did.

The circular of Mr. Cánovas, explanatory of the much-controverted eleventh article of the constitution, may certainly be deemed to go as far in the direction of guaranteeing absolute inviolability for the dissenting church and cemetery as the language of the eleventh article can possibly stretch. The principle of religious propaganda, as doctrinal diffusion of ideas, comes, as Mr. Alonso Martinez has shown, (see my No. 344,) under a separate constitutional provision; and we now see that religious propaganda in the form of public instruction is brought within still another article, leaving the eleventh article to stand alone as simply securing freedom of religious opinion and of *worship*, and no more.

It remains to be seen how this decision of the government will affect the work of the evangelical establishments in Spain. Many of them, especially in the smaller towns, have the schemes of worship, instruction, and propaganda inextricably combined, one room serving alike for a chapel, for a school-room, and as a place of meeting for a lecture or some like secular social purpose. On the one hand, the local authority can hardly be expected to know at any precise day or hour whether such an apartment is clothed with constitutional inviolability or not; on the other, to confine the use of such room to the one specific purpose of worship would bear heavily on the poorer missions in the provinces.

In the cities, however, it would not be regretable if the whole matter should end by requiring the construction of decent church-edifices, *templos* in fact as well as in name, for dissenting worship—buildings whose outward form and specific use would leave no room for controversy, and the establishment of which in Spain would mark an era of permanence for the evangelical movement, which now rests on so feeble a native basis.

I have, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Circular royal order, regulating religious liberty and non-Catholic worship in Spain.

[From the Gaceta de Madrid, October 24, 1876.]

CIRCULAR.

The natural difficulties which have arisen in the application of the eleventh article of the fundamental law of the state, as they do in that of any new legal text; the charges brought against a public officer, which have been the subject of administrative investigation, and are decided by a royal order of this date, and the various reclamations which, in distinct sense and concerning events occurring in the practice of the rights embodied in that article, are being presented from different cities and localities to the government of His Majesty, impose upon the latter the imperative duty of issuing certain rules in conformity with the existing legislation of the kingdom.

The government of His Majesty is determined that the letter and spirit of the eleventh article of the fundamental code shall be respected and obeyed by all; its understanding is that the first and second paragraphs of that article can afford no good ground of doubt to any one; and that the Catholic Roman apostolic religion being proclaimed in the one as official, in the other are respected the religious opinions of all those who dwell outside the pale of that church, and the exercise of any other worship

is permitted which does not oppose or contradict Christian morality. It is very clear consequently, that the state protects the Catholic religion, for it is its own, but that at the same time it admits and establishes the tolerance of worship, guaranteeing the exercise of that right against every form of aggression.

The government, however, is not unaware that the third paragraph of the eleventh constitutional article has given rise in practice to doubts and vacillations, which are not referable to the word *ceremonies*, the genuine sense of which cannot be obscured, but to the phrase *public manifestations*. It should be remembered, nevertheless, that in discussing the constitutional precepts before the Cortes, the meaning which was to be given to the phrase in question was declared, now spontaneously, now in response to concrete questions put in the exercise of their right by the representatives of the nation. This recollection may serve to dispel any groundless censures on the score of inconsistency or arbitrariness which may be leveled against the governmental measures now adopted, if they turn out to be in harmony with the declarations made in the constitutional discussion referred to.

This is not the first time that the governmental authorities and the tribunals of justice have been obliged to give correct interpretation to the phrase *public manifestations*. The existing penal code, reformed on the 18th of June, 1870, frequently makes use of it; and in punishing, in its one hundred and sixty-eighth article, a certain class of public manifestations, it considers as promoters and directors of the same all those who, by means of *discourses, printed documents, mottoes, flags, or other signs openly exhibited by them, or by any other acts*, inspire them. It cannot be denied, therefore, that the penal law, without confusing a *meeting* with a *manifestation*, interprets the latter in a broad sense, and seeks its essence in words, printed matter, mottoes, flags, and other signs which are made use of in order to realize it. In virtue of this interpretation, there have been prohibited in Spain, since that penal legislation is in force, mottoes and public inscriptions alluding to forms of government distinct from that at present existing, and there are political parties without the fold of the common legality solely by reason of the name they choose to give themselves.

And even setting aside the penal code, it is sufficient to resort to the dictionary of the language, prepared by the learned academy which in Spain watches over the purity and precision of our tongue, in order to know that a public religious manifestation is *any act* which, setting out from the closed precincts of the private dwelling, of the temple, or of the cemetery, "*declares, brings to light, or causes to be known that which is kept or concealed within them.*"

From this point the government sets out with the belief, with as much good faith as firmness, that everything which may manifest in or upon the public way the opinions, beliefs, or religious ideas of the dissident sects, or which may make known in the same form the acts relating to their respective worship, ought to be prohibited, and cannot be authorized or tolerated by the authorities charged with guarding the constitution of the state.

In professing this doctrine the government which to-day rules the destinies of the kingdom, is certainly not an exception on so important a point. In one of the countries which at the present day sets the highest price upon religious liberty, where not merely tolerance is proclaimed, but where it is pretended to guarantee the absolute liberty of all worships, and especially of the Catholic worship, yet for high national and international reasons there are, nevertheless, forbidden certain public manifestations which are very ancient and firmly rooted as customs, believing that if, on the one hand, governments are constrained to permit the full exercise of religious liberty, it is their duty, on the other hand, to scrupulously foresee, not only the care of morality and health, but also the maintenance of public order, preventing agitations among their citizens which find motives or pretexts in any religious act performed outside the temples.

There is also a nation, and one of the most free, which, taking into account the beliefs of the majority of its citizens, and even the interest of those who profess other and diverse beliefs, does not allow the members of the dissident churches, whether alone or accompanied, to wear outside of their churches the garb peculiar to their religion, to practice their rites and ceremonies, nor to carry banners, objects, or symbols of any kind in the public way, and considering it a punishable act when such proceeding takes place in the neighborhood of temples dedicated to the service of the official religion. Such acts, performed outside of private houses, of cemeteries, or of temples especially destined for worship, are looked upon there as the occasion of great scandal and of vexation for the majority—as an evident peril for the public peace—and are energetically repressed.

In the interpretation of the constitutional article in question, the government of the King does not propose to itself any different course from the foregoing. It demands from the dissident sects, and in favor of the official religion of the state, the respect and the consideration which the penal code exacts for the form of government, which is likewise the expression of the will of the immense majority of the country, in such manner that everything which directly and in the outward parts of the public way (or

streets) may be contrary to the Roman Apostolic Catholic religion must be proscribed, whether the same be done by personal acts, or by emblems, inscriptions, advertisements, and other signs.

But in order to exactly determine the limit which separates the lawful from the unlawful, in order that the inviolability of the places destined for the worship of those sects, so long as they do not attack Christian morality, may be maintained in their shelter, those who profess those doctrines may freely devote themselves to the exercise of the right guaranteed in the constitutional precept; and in order, moreover, that, under pretext of religious meetings or associations, there be not constituted political organizations contrary to the security of the state and to the maintenance of social order, it is necessary that the public administration should know where to find the places of worship, (*templos*,) and who they are who direct, control, or represent them. It is indispensable, therefore, that every Spaniard or foreigner about to open a temple consecrated to a religion diverse from the Catholic, and which may come within the 11th article of the constitution, shall give knowledge thereof to the civil governors in the capitals of provinces, to the subgovernors in those towns where this class of authorities act, and to the alcaldes in other parts of the kingdom. Neither the ones nor the others should nor can forget that the constitutional inviolability of the temple only guarantees acts, rites, and ceremonies which are purely religious, since for all other purposes, not only the ministers of any worship, whatever it may be, but also those congregated within the precincts destined for its practice, are subject to the laws of police and of hygiene established by ordinances and regulations, and must be responsible for the faults and offenses which may be committed within those precincts, and especially by reason of their political nature, for those comprehended in articles 144, 145, 181, 182, 197, 198, 199, 201, 202, 203, and 271 of the penal code.

There is, moreover, in this so very important a matter, a point concerning which the government of His Majesty must express its frank and resolute opinion. The lamentable confusion which, in some parts, it has been sought to introduce between the temple, devoted to worship, and the school, destined for teaching, cannot be in any manner allowed. The temple is inviolable, according to the eleventh article of the constitution; the school is submitted to the inspection, vigilance, and correction of the government and of its delegates, according to the seventh article of the decree of July 29, 1874, regulating the liberty of instruction; and those governmental powers would be illusory if the professor could invoke the inviolability of the priest, and convert at his pleasure into a church the hall wherein he assembles his pupils in order to instruct them in literature, arts, or sciences. Religion is the object of the eleventh constitutional article; instruction, of that of the twelfth article. The effects of the two precepts are distinct, as is the nature of the rights they guarantee, and, in order to carry out those effects and respect those rights, it is indispensable to fix with clearness the line of division between the temple and the school. If there be any one who may endeavor to excite controversies under cover of an inexplicable confusion, the prudence of the government must avoid them.

On the other hand, the free exercise of worship is recognized in Spain to all inhabitants thereof, without distinction between natives and foreigners; but the same thing does not occur with respect to the liberty of instruction, a possession which is assured only to Spaniards in the twelfth article of the constitution. Reasons of state, which cannot but be evident to all, have obliged the Spanish law-makers of every epoch, including those of the most liberal ideas, to make the national character a requisite for the foundation or creation of establishments of instruction, because it was impossible to consign to the hands of strangers the sacred trust of the future generations who bear in their consciences and in their understandings the future of our country. Thus it is that, not only for the foundation of schools and establishments of instruction, but even for the mere entrance into the professorate of Spain, it has been necessary for the laws of public instruction to give especial authorization to foreigners, as was the case in the law of 1857, which only empowered them to teach the living languages and to give lessons in vocal and instrumental music. It should, therefore, be particularly borne in mind by the authorities that foreigners cannot be at the head of establishments of instruction, whether public or private, because this is not permitted by the fundamental code by reasons of grave considerations of high political interest.

After this there only remains one last admonition to make in order to complete the design of the government. The latter understands, and proposes to act in accordance with its understanding, that outside of the temple, which is inviolable so long as no punishable offense be committed therein, and outside of other establishments authorized for the purpose by special order, all meetings which may be held, whatever may be their character and the ends proposed, remain subject to the first rule of the royal order of February 7, 1875, which prescribes "that there shall not be allowed the convocation or celebration of any public meeting in streets, squares, or promenades or other place of common use, without the previous permission, in writing, of the governor of the province in the capitals, and of the local authority in other towns." If, perchance, therefore, any such meetings be held without previously soliciting and ob-

taining the permission of the authority, it can be dissolved forthwith as unlawful, and its authors handed over to the courts of justice. No one can stigmatize this measure as unjust, because it would be folly to demand of the government that it should grant to the very small minority, as the dissenters are, that which it cannot concede to Catholics, who constitute almost the totality of Spanish citizens.

In this manner are fully explained the purposes of the government on the points to which, directly or indirectly, the eleventh article of the constitution may be applicable; and such must be the interpretation to which must be adjusted the conduct of the authorities and functionaries to whom its compliance appertains. And in order that they may know more clearly still what they are to obey, and that there be no room for disculpation through allegation of unfounded vagueness in the instructions contained in this circular, they are hereinafter condensed in precise and concrete rules, namely:

1st. There is hereby prohibited, from this date, every public manifestation of worship or of sects dissenting from the Catholic religion outside of the precincts of the temple or the cemetery of the same.

2d. For the effects of the preceding rule shall be understood as a public manifestation every act executed upon the public way or upon the outer walls of the temple and of the cemetery, which may denote (*que dé á conocer*) the ceremonies, rites, uses, and customs of the dissenting worship, whether it be by means of processions, or of sign-boards, banners, emblems, announcements, and posters.

3d. Those who found, construct, or open a temple or a cemetery, destined for the worship or interment of a dissenting sect, shall bring the same to the knowledge of the governor of the province in a capital, of the subgovernor in places where such an authority resides, or of the alcaldes in the other towns, forty-eight hours before opening them to the public, stating the name of the director, rector, or person in charge of the establishment.

A like notice will have to be given, if it have not already been done, and within a period of fifteen days, counting from this date, by the founders or persons in charge of the temples and cemeteries in existence at the present time.

4th. The schools dedicated to instruction will perform their functions independently of the temples, whatever be the worship to which the latter belong, and they shall be considered as separate therefrom for all legal effects.

The directors or persons in charge of the same must be Spaniards, and they shall bring to the cognizance of the authorities to whom the foregoing rule refers the object of the instruction, their names and academic degrees, if they possess such, and those of the professors in whose charge the several chairs (or branches of study) may be.

5th. The meetings held within the temples and cemeteries, as well dissenting as Catholic, shall enjoy the constitutional inviolability, provided there be not expressly contravened thereat the ordinances and regulations of police, or that there be not committed any of the offenses comprehended in and punished by the penal code.

6th. The schools and educational establishments, without distinction of worship, (or religion,) shall continue subject to the constant inspection and intervention of the government, in conformity with the precepts contained in the decree of July 29, 1874.

7th. The meetings which may be held outside of the temple and of other places and establishments authorized for such purpose by special order shall remain subject to the royal order of the 7th February, 1875; and if for their convocation or celebration there be not solicited and obtained the previous permission of the authority in writing, they can be dissolved as unlawful on the spot by the governor, subgovernor, or alcalde, respectively, who shall deliver those who convoke or preside such meetings to the disposal of the tribunals of justice.

By royal order accorded in council of ministers, I communicate this to you for its publication in the official bulletin of your province, and for its exact fulfillment.

May God guard you many years.

Madrid, October 23, 1876.

CÁNOVAS.

Señor CIVIL GOVERNOR OF THE PROVINCE OF ——.

CORRESPONDENCE RELATIVE TO THE TRIAL OF GENERAL BURRIEL PURSUANT TO THE PROTOCOL GROWING OUT OF THE CAPTURE OF THE VIRGINIUS.

No. 256.

Mr. Hall to Mr. Cadwalader.

No. 304.] U. S. CONSULATE-GENERAL,

Havana, December 23, 1875. (Received December 28.)

SIR: The newspapers of this city, of 21st and 22d instants, an-

nounce the relief of General Count Valmaseda and the appointment of General Jovellar as his successor. That a change was imminent was well understood by all classes, but the appointment of General Jovellar, although hoped for, was hardly expected; naturally, it gives general satisfaction.

General Jovellar governed the island from November, 1873, to April, 1874; short as was the term of his administration, he acquired a reputation for integrity, as well as justice and humanity; he appeared to be actuated, also, by a conciliatory spirit toward the Cubans, and if his administration was not a success it was probably due to causes which he could not control.

* * * * * * *

Yours, &c.,

HENRY C. HALL.

No. 257.

Protocol of the conference held at the Department of State, at Washington, on the 29th of November, 1873, between Hamilton Fish, Secretary of State, and Rear-Admiral Don José Polo de Bernabé, envoy extraordinary and minister plenipotentiary of Spain.

The undersigned, having met for the purpose of entering into a definitive agreement respecting the case of the steamer Virginius, which, while under the flag of the United States, was, on the 31st of October last, captured on the high seas by the Spanish man-of-war Tornado, have reached the following conclusions:

Spain, on her part, stipulates to restore forthwith the vessel referred to, and the survivors of her passengers and crew, and on the 25th day of December next to salute the flag of the United States. If, however, before that date Spain should prove to the satisfaction of the Government of the United States that the Virginius was not entitled to carry the flag of the United States, and was carrying it at the time of her capture without right, and improperly, the salute will be spontaneously dispensed with, as in such case not being necessarily requirable; but the United States will expect, in such case, a disclaimer of intent of indignity to its flag in the act which was committed.

Furthermore, if, on or before the 25th of December, 1873, it shall be made to appear to the satisfaction of the United States that the Virginius did not rightfully carry the American flag, and was not entitled to American papers, the United States will institute inquiry, and adopt legal proceedings against the vessel, if it be found that she has violated any law of the United States, and against any of the persons who may appear to have been guilty of illegal acts in connection therewith; it being understood that Spain will proceed, according to the second* proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts and inflict punishment on those who may have offended.

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* The second proposition is as follows:

Second. If it be proved that in the proceedings or sentences pronounced against foreigners by the authorities of Santiago de Cuba there has been an essential failure to comply with the provisions of our legislation or of treaties, the government will arraign those authorities before the competent tribunals.

Other reciprocal reclamations to be the subject of consideration and arrangement between the two governments; and, in case of no agreement, to be the subject of arbitration, if the constitutional assent of the Senate of the United States be given thereto.

It is further stipulated that the time, manner, and place for the surrender of the Virginius, and the survivors of those who were on board of her at the time of her capture, and also the time, manner, and place for the salute to the flag of the United States, if there should be occasion for such salute, shall be subject to arrangement between the undersigned within the next two days.

HAMILTON FISH.
JOSÉ POLO DE BERNABÉ.

No. 258.

Mr. Sickles to Mr. Fish.

No. 971.] UNITED STATES LEGATION IN SPAIN,
Madrid, January 31, 1874. (Received March 20.)

SIR: I have the honor to state for your information that, by reference to my dispatches, it will be found that this government had revoked the authority given by General de Rodas to subordinate commanders to shoot prisoners. General Prim condemned the practice, and as minister of war forbade it. Mr. Becerra, as minister of the colonies, in a published allocution, denounced these barbarities. Mr. Moret, his successor, in his instructions to Count Valmaseda, a copy of which I forwarded to you, expressly directed that any officer subordinate to the captain-general found guilty of such acts should be punished. And General Cordova, the last minister of war under the late King, in his general orders to Captain-General Ceballos, an extract from which was also sent to you, emphatically disapproved of measures of exceptional severity toward prisoners.

It appears, therefore, that the conduct of the authorities at Santiago finds no justification in the orders of this government, unless the instructions given to Generals Pieltain and Jovellar were essentially different from those received by their predecessors, and that in this, as in other instances, the Cuban authorities availed themselves of their traditional privilege of disobeying the home government.

It is asserted without contradiction that the late government promoted General Burriel in October last, and the publication of the order is now demanded by influential journals as a just recompense for his services at Santiago.

I am, &c.,

D. E. SICKLES.

No. 259.

Mr. Adee to Mr. Fish.

No. 209.] UNITED STATES LEGATION IN SPAIN,
Madrid, April 25, 1874. (Received May 19.)

SIR: I have the honor to forward herewith a copy and translation of a communication published in *La Epoca* of the 21st instant, over the signature of Brig. Gen. Juan Burriel. This publication is an attempt

to vindicate the conduct of the writer in the execution of the Virginius's captives at Santiago de Cuba, and is addressed to the editor of *La Revue des Deux Mondes*, in answer to some strictures on the acts of the Cuban authorities which appeared in an article printed in that periodical in March last. The name and rank of the author, his presumable acquaintance with the facts of which he treats, the character of his defense, the statements he makes respecting the orders under which he claims to have acted, and the free publication of his communication by an influential journal at a time when the press is under a censorship of unusual rigor, all join in lending this remarkable document importance as a sort of semi-official manifestation in behalf of the officers concerned in the massacres at Santiago.

Two of General Burriel's statements are deserving of especial remark. It will be noticed that he avers that the orders under which the Virginius was seized, and her officers and crew tried and shot, were contained in the decree of General Dulce of March 24, 1869, which, as he says, has never been repealed or abrogated. When the language of the preamble to the decree of July 7, 1869, in which it was stated that General Dulce's orders were thereby superseded, and the many positive assurances received from nearly every successive cabinet of Madrid deprecating the celebrated decree of March 24 are remembered, it appears indeed strange that General Burriel's assertion should not only be made public, but suffered to remain uncontradicted.

The second noteworthy fact is found in the certificate of General Riquelme, chief of staff of the army of Cuba, which is given by General Burriel as an ample disculpation from the insinuation of the *Revue des Deux Mondes*, that the stoppage of telegraphic communication between Havana and Santiago at the time of the Virginius slaughter was "more or less fortuitous." From this official document it appears that, while the cable connecting those cities was inoperative from October 13, 1873, to the date of the certificate, February 11, 1874, the land-line was only interrupted from the 1st to the 7th of November, and after a day's interval, in which it may be inferred that it was temporarily in working order, it again became obstructed on the 8th of November, and continued so until the 13th of that month. As General Riquelme's testimony in this regard confirms the report that the break in the line coincided with the arrival of the Virginius at Santiago, it can hardly be said to afford the triumphant exoneration claimed for it. On the contrary, it seems to have escaped attention that another and more serious suspicion might possibly be raised by the publication of this paper, since the news of the capture of the Virginius was received in Madrid at an early hour on the 6th of November, and not on the 7th, as General Burriel erroneously avers, and the orders of President Castelar, issued the same morning, which were not received in Havana, as Mr. Carvajal said, until the morning of the 7th, might not unreasonably be presumed to have reached that capital in season to be transmitted during the temporary resumption of communication by the land-line to which General Riquelme bears witness, and, consequently, it is not impossible that they might have been transmitted to Santiago before the shooting of the last batch of victims on the 8th.

Passing this by, however, it appears to me that, in view of the explicit declarations that General Burriel was obeying orders, it would not be out of place to ask an explanation of the matter in the proper quarter, and, in event of their inaccuracy, to demand the public retraction of this extraordinary letter.

I may add that General Burriel, who is now in Madrid, was said to

have been warmly welcomed by many influential persons on his arrival, and it is announced in the *Imparcial Discusion*, and other journals of various politics, that at a concert recently given in the Marquis of Alcañice's palace in aid of the sick and wounded, General Burriel was "the object of marked demonstrations of sympathy for his energetic conduct at Santiago de Cuba."

I am, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Letter of General Juan Burriel to the Revue des Deux Mondes.

[From La Epoca, April 21, 1874.]

MADRID, *April* 14, 1874.

To the Director of the Revue des Deux Mondes:

ESTEEMED SIR: In the review which you so skillfully edit, and which merits general acceptation by reason of the distinguished judgment with which it touches upon all the matters of which it treats, in volume xii, of date March 2d last, second edition, a few pages (from the 434th) are devoted to the Cuban question, and I have seen with regret that, alluding to the recent question of the Virginius, place is given to views which are very far from the truth, and interrogatories are printed to which it seems taken for granted that a reply is very doubtful, or, rather, it is sought to intimate such a reply in a manner favorable to gratuitous suppositions. Such views and interrogatories published in a work of high standing and worthy of credit, and one which consequently has a large circulation, may to-morrow form data for history, while, in truth, they would not be trustworthy without a clear rectification alike due to the honor of my country and to my own, and which, I cannot doubt, will be made in your review, when you, Mr. Director, are convinced of the truths which I propose to set forth with the brevity which a communication of this kind requires, and avoiding comments.

It is said on page 457, with reference to the capture of the Virginius, "that a court-martial was forthwith installed on board the Tornado; that all the prisoners were tried as pirates; that only 18 escaped sentence of death, among whom there were four or five only who were ignorant of the object of the expedition."

The facts show these inaccuracies, as will be seen in the following statement of them: There were on the Virginius 155 prisoners, of whom 103 were tried by the military tribunal of the general headquarters of Santiago de Cuba, and the remaining 52, who composed the crew of the vessel, from the captain to the cabin-boy, were tried by the marine tribunal in a council of war which was held on board the steamer Francisco de Borja on the 6th of November, and lasted until six o'clock in the morning of the 7th, 37 being sentenced to death, of whom 27 were Americans or Englishmen, and the other 10 Cubans; of the rest, 15 in number, 3 were sentenced to liberty, (*sic*,) because the fact of their unwillingness to embark had been proven by Captain Fry himself, and 12 to different terms of imprisonment on account of being seamen and ship's hands, of a low grade. This is the truth, and is proved by official documents, as it has also been clearly proved that the vessel was a pirate, because she unduly carried the American flag, and that her capture was legal. Of the remaining prisoners, 16 were sentenced to death, and executed, because they were so-called generals, chiefs, and officers; and 87 remained at the disposal of the captain-general of the island, when, on the 8th, I sent him an aid-de-camp with the war-steamer Bazan, under full steam, in order that, if he wished, he might commute their death-penalties; and for this reason, and because of having received on the same 8th day, in Havana, the orders of the Castelar government to suspend the executions, there were delivered to the steamer Juniata, (American,) on the 18th of December, the 102 surviving foreign and Cuban prisoners. Consequently, those shot were 53; and 102, the survivors, returned in virtue of the Polo Fish protocol.

The same paragraph goes on to say: "The foreign consuls protested energetically in favor of their countrymen; but Governor Burriel only awaited the end of the trials in order to begin the shootings. Was his object to assert his authority and forestall the intervention of the government?" The answer is very simple. The pretensions of the consuls and commanders of vessels who made these protests were not conceded, because I was prohibited from doing so by the special circumstances of the case and the superior orders then in force, and my "desire to assert my authority" is very soon explained. The laws or orders under which I tried the prisoners of the Virginius and applied the extreme penalty to the insurgent chiefs were the following: That of Feb-

ruary 24, 1869, ordering that all insurgent leaders captured should be shot "without any other condition than the proof of their identity," and the same with those who were known to exercise influence in the insurrection, although they might not be styled chiefs, (*cabecillas;*) that of October 20, 1870, which peremptorily prescribed the same thing, excepting certain named personages of note, whose punishment on being captured was to be inflicted in Havana; that of January 28, 1871, in the seventh article of its penal regulations; the *bando* or proclamation of May 14, 1872; and the circular of the 8th of June following, ordering the prompt and exemplary punishment of those who may wound in an alarming manner the integrity of the country.

If stronger grounds are needed to justify my conduct in those circumstances and to carry conviction to the most scrupulous and conscientious mind, see the decree of March 14, 1869, which has not been abrogated by any order whatever, issued by the superior political governor of Cuba, in the exercise of the extraordinary discretionary powers with which he stood invested, for the purpose of preventing precisely such piratical expeditions as that of the Virginius, which provides in its sole article "that vessels which may be captured in Spanish waters or on the high seas, in the neighborhood of this island, laden with men, arms, and munitions and war-material that can in any manner contribute to inciting or giving aid to the insurrection in this province, whencesoever they may come or whithersoever they may be found, after examination of their papers and registers, shall be *de facto* considered as enemies and treated as pirates in conformity to the ordinances of the navy, and the persons captured in them, whatever may be their number, shall be immediately shot."

These are the superior orders by which my conduct was governed—orders which admitted of no consultation or delay, and the exact fulfillment of which was obligatory upon me. And even thus, is it true that I only awaited the end of the trials in order to begin the shootings? It is not true; and, as before, I repeat that the facts prove it. A few hours had sufficed for the identification of the persons of the delinquents, and this would have been enough for compliance with the law, but I desired that the justice of the matter should be clearly evident. I desired that all should be heard in their defense, and for this reason the first four chiefs of most importance who suffered the rigor of the same (the law) did so on the 4th of November; that is, four days after being made prisoners. The next were the thirty-seven of the crew, on the 7th of the same, and the twelve last on the 8th; or, in other words, seven and eight days after the capture.

It is not permitted to military men to vacillate when they have peremptory orders to obey, and still more when they are grave and important and refer to acts of war; consequently no consideration whatever could make me pause before this duty, and still less the protests presented wholly without right by the American vice-consul. If the laws of Spain are too severe in the judgment of foreigners, I am not the one called upon to arrest their action, and they are at liberty not to tread the soil of Spain if its method of ruling and governing itself does not suit them. Their protests in these extreme cases should not be heard, for they only seek thereby to hinder the action of the law. Let their respective governments come with reclamations, and this is the way to modify them, (the laws,) if it be deemed necessary to do so. There follows another answered interrogatory, which says: "Did he yield only to the pressure of the volunteers?" "This is still possible in Havana as in Santiago," says an American correspondent. It is very easy for me to prove to that correspondent that his assertion is not based on authentic information. All my acts in the posts I have filled in the island of Cuba are publicly known, and whoever may be even slightly acquainted with the different events which have taken place in Cuba, will easily remember what occurred in Matanzas on the night of the 1st of February, 1870, by reason of the receipt of the news of the assassination of Castañon.

Here I shall permit myself to make a slight digression. On page 447 of the article which occupies my attention, it is stated "that Castañon was wounded in a duel by a Creole hand," and it is indispensable to throw light on this, so that what is public and notorious may be put on record, that Castañon was assassinated in a hotel in Key West by several Cuban insurgents. Well, then, because of this affair, the minds, not only of the volunteers, but of all the Spaniards and foreigners who chanced to be in the island, became aroused, demanding, as was just, blood for blood; and as in Matanzas several suspected persons had been recently imprisoned, and the corresponding proceedings were being initiated against them, the volunteers, in their natural indignation, demanded speedy and immediate justice against the accused, in whom for the time they beheld, not suspected persons, but culprits or enemies of ours. I flung myself among their bayonets, and, with the energy which in such cases is necessary, I made them comprehend that the government would do justice, and that this should be done in the form and manner prescribed by our laws. I do not deem it necessary to go further into details, since the voice of my authority was heeded, and what afterward took place is well known. In the matter which now occupies us, was there in Santiago de Cuba a single Spaniard who was not filled with indignation on learning that the prisoners of the Virginius who survived the fifty-three would have to be delivered up to

the Government of the United States? Have the shadows of the night hidden what occurred on that (the night) of the 16th of November in Santiago de Cuba, and has it consequently not reached the notice of the American correspondent? I believe that the way in which the public feeling was exhibited on that night is well known, and it is most notorious that I, although appreciating the just indignation of those loyal inhabitants, said to them that the government had commanded it, and that they would have to pass over my dead body before its orders should be left unobeyed. For the second time the voice of my authority was heard with marked signs of respect; and this is, in sum, the pressure to which I yielded in obeying the laws and the mandates of my superiors.

Further on it adds: "That Mr. Castelar, as soon as he knew of the event, sent a telegram peremptorily ordering the suspension of all executions; but that by reason of an interruption, more or less fortuitous, in the telegraphic communications between Havana and Santiago, General Burriel was left in full liberty of action, and fifty-seven executions had already taken place when the dispatch of the government arrived." The "more or less fortuitous" has its marked intent, and the effect it may have produced on its readers will, I judge, be completely dispelled by copying the following document:

"Don José Riquelme y Gomez, major-general (*mariscal de campo*) of the national armies and chief of staff of the armies of this island, whose general-in-chief is his excellency Lieutenant-General Don Joaquim Jovellar y Soler, certifies that, according to the antecedents on record in this headquarters of the staff, it appears that at the time of the capture of the filibuster steamer Virginius it was not possible to make use of the submarine cable or of the land telegraph-wires established between Santiago de Cuba and this capital, because those lines were interrupted, the first from the 13th of October last up to date, and the second from the 1st of November to the 7th, inclusive, and from the 8th to the 13th of the same month. And that this be of record for such purposes as may arise, I sign the present in Havana the twelfth of February, one thousand eight hundred and seventy-four.

"JOSÉ RIQUELME.

"Here follows a flourish. Seen and approved.

"JOVELLAR.

"Here follows a flourish and a seal, which says: Army of Cuba, general staff-office.

Moreover, in Madrid, Mr. Castelar did not receive the news of the capture of the pirate steamer until the 7th; consequently any order of the government was already late.

Further on it is said: "That in the United States, from the North to the South, there broke forth a unanimous cry of wrath and of warlike and patriotic ardor, and there was no town or hamlet where there were not demonstrations of indignation."

It is true that the mob (*populacho*) broke out even to insults against the Spaniards; but are we, perchance, ignorant how, why, and by what a mob is led, and in the present case can we doubt by whom it would be excited, especially in strongly-marked races, and what occurs under certain circumstances in all nations? But is not that which the sober and prudent press of the United States has said more likely to be true? Let us see, then, what is written and preserved in the journals in favor of order. The high financial and commercial interests, the lawyers of universal fame, all the persons of judicial knowledge, and the well-informed military men—that is to say, the genuine common-sense element in the United States—not only did not utter a single expression in favor of war, but, on the contrary, was shown to oppose it and to recognize our right. Concerning the calculations which were made of the cost of an expedition and the pretensions of conquering Cuba, I need not now occupy myself, for enough has been said and written, and very clearly, too.

The interrogatory which follows, as to whether Spain is really in fault in this affair, is a very delicate matter, and as in its main facts it concerns our honor, it will have to be cleared up in due time, and then the whole truth will shine forth.

It is also said, further on, referring to the Spanish war-steamer Tornado, "that her commander has violated international laws by capturing on the high seas a foreign vessel sailing under the American flag, with all her papers in due order and *viséd* by the consul of that nation at Kingston, and which vessel was bound to Costa Rica, carrying laborers, for at that time the construction of a railway was in progress."

It would be excusable (and it was) that, the capture having been recently effected, a thousand versions and commentaries and inaccuracies, more or less inspired by passion, should arise; but at the date of the publication of the article, a date when the object of the voyage of the Virginius was already proved by facts and established under every point of view, although this was already well known long beforehand not only in America but in Europe; when the public is possessed of the spontaneous declarations of the captain of the vessel, recognizing his grave offense, but that he confided in its good result to obtain "a positive and considerable reward," and that of the insurgent leaders, the crew, and the other insurgent prisoners, all agreeing, all

unanimous in setting forth all that was necessary to prove before the whole world the abundant right we had to seize, try, and execute the sentence of the laws of our country, it cannot be suffered to pass without calling attention toward the path of truth; and as whatever has occurred in the matter has been published in journals of good standing, with copies of authentic documents demonstrating all with exactness, I confine myself here to the passing statement that the commander of the Tornado fully complied with his duties in seizing a pirate vessel, as the Virginius was, and not a foreign ship bound to the coast of the island of Cuba, with men, arms, and munitions to aid the war, even though that vessel carried the American flag unduly, for she might have flown that of any other nation just the same; that he obeyed his duty in seizing the vessel in question, especially as, when stopped and searched, she did not carry any document in regular form, but, on the contrary, presented a thousand signs that made her mission evident at the first glance; and even if any doubt had still remained, it would have been promptly dispelled by the surrender and clear and unmistakable confession of Bernabé Barona (Varona) alias "Bembetta," the chief of the expedition, and the so-called generalissimo of the rebel army.

This matter must still involve many claims for indemnification and many consequences, and the truth of the facts will be made fully clear in due time by those to whom this pertains; and as it is expedient to shed all possible light on it in anticipation of that time, this gives rise to my desire that errors or mistakes be corrected, so that all may stand forth as it is and as it took place.

I therefore address myself to you, Mr. Director, hoping, from your goodness, that you will do the favor to make these explanations in your enlightened publication, which favor will be ever gratefully acknowledged by him who improves this occasion to offer himself to you as your most obedient, faithful servant,

Q. B. S. M.

JUAN BURRIEL.

No. 260.

Mr. Fish to Mr. Cushing.

No. 31.] DEPARTMENT OF STATE,
Washington, June 9, 1874.

SIR: Referring to Mr. Adee's Nos. 209, 214, and 216, it is presumed that before the receipt of this you will, under your general instructions, have asked an explanation of the letter of General Burriel to the editor of the *Revue des Deux Mondes.*

General Burriel founds his justification on the assertion that he acted under the decree of the captain-general of Cuba of March, 1869, in which it was said:

Vessels which may be captured in Spanish waters, or on the high seas near to the island, having on board men, arms, and munitions, or effects, that can in any manner contribute, promote, or foment the insurrection in this province, whatsoever their derivation and destination, after examination of their papers and register, shall be *de facto* considered as enemies of the integrity of our territory, and treated as pirates, in accordance with the ordinances of the navy. All persons captured in such vessels, without regard to their number, will be immediately executed.

Immediately on the receipt of this decree at this Department, I wrote to Mr. Lopez Roberts as follows respecting it:

It is to be regretted that so high a functionary as the captain-general of Cuba should as this paper seems to indicate, have overlooked the obligations of his government pursuant to the law of nations, and especially its promises in the treaty between the United States and Spain of 1795. Under that law and treaty the United States expect for their citizens and vessels the privilege of carrying to the enemies of Spain, whether those enemies be claimed as Spanish subjects or citizens of other countries, subject only to the requirements of a legal blockade, all merchandise not contraband of war. Articles contraband of war, when destined for the enemies of Spain, are liable to seizure on the high seas, but the right of seizure is limited to such articles only, and no claim for its extension to other merchandise, or to persons not in the civil, military, or naval service of the enemies of Spain, will be acquiesced in by the United States.

This Government certainly cannot assent to the punishment by Spanish authorities

of any citizen of the United States for the exercise of a privilege to which he may be entitled under public law and treaties.

It is consequently hoped that his excellency the captain-general of Cuba will either recall the proclamation referred to, or will give such instructions to the proper officers as will prevent its illegal application to citizens of the United States or their property. A contrary course might endanger those friendly and cordial relations between the two governments, which it is the hearty desire of the President should be maintained.

It has been supposed at this Department that in consequence of these representations this highly objectionable decree was abrogated. It was therefore with no little surprise that information was received of the assertion that it is regarded as still in force. It is deemed important to have accurate information on this point.

You are therefore instructed, as soon after the receipt of this as possible, to inquire whether it be true, as stated by General Burriel, that the decrees of March 24, 1869, had not been abrogated when the executions took place at Santiago de Cuba; also, whether those decrees, or anything equivalent to them, respecting jurisdiction on the high seas, are regarded as still in force; also, whether the executions by General Burriel's orders are regarded as having been made under authority of law.

It is supposed that the neglect hitherto of the government of Spain to institute steps for the punishment of General Burriel and his associates in the bloody deeds at Santiago de Cuba has been caused by the extraordinary political condition of the peninsula. If this supposition is incorrect, it is important that we should know that fact. You will, therefore, also inquire whether proceedings are to be instituted against them, and when and where the proceedings will probably take place. You will also inquire whether it is in contemplation to exhibit any marks of the displeasure of his government by military degradation or otherwise.

The President does not wish to have these inquiries presented in a minatory spirit and form; nevertheless, he feels that the maintenance of good relations with Spain depends upon her adherence to the statements and assurances hitherto given to this Government respecting the abandonment of the objectionable decrees, and the disavowal and punishment of the assassins who, under the guise of the form of trial, shocked the civilized world by the executions in Santiago de Cuba.

I am, &c.,

HAMILTON FISH.

No. 261.

Mr. Cushing to Mr. Fish.

No. 44.] UNITED STATES LEGATION,
Madrid, June 27, 1874. (Received July 20.)

SIR: I inclose herewith copy of a communication addressed by me to the minister of state, in obedience to your instructions of the 9th instant.

The incident to which the instructions refer occurred prior to my arrival here, and, on reading the dispatches of Mr. Adee on the subject, which were of a nature to invite instructions, it seemed to me most discreet, before acting, to hear from the Department.

Meanwhile I had conference on this incident of the matter of the Virginius, as well as in regard to the question of indemnities, and the re-

sult of these interviews was to convince me that the circumstance of the action of the British government having preceded ours was of great advantage to the United States. * * * *

Mr. Adee informs me that he was influenced by the same consideration.

A report had been current of the promotion of General Burriel. I learn, upon inquiry, that this report is false, and that the promoted officer was another person, although of the same surname.

General Burriel's article, as printed in the *Epoca*, purports to have been directed to the *Revue des Deux Mondes*, but I am not able to find it in any number of the *Revue*, and I think it was not printed therein.

It may be worth noting that the newspaper published at Madrid, entitled *La Iberia*, and which is understood to be the especial mouth-piece of Mr. Sagasta, did editorially deny the assertion of General Burriel, Mr. Sagasta being at that time minister of state.

I have, &c.,

C. CUSHING.

[Inclosure.]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, June 27, 1874.

SIR: The Government of the United States, on learning that General Juan Burriel had published in one of the newspapers of Madrid, on the 14th of April last, a communication which, in the vain effort to defend his atrocious act of the summary execution at Santiago de Cuba of fifty-three persons of the crew and passengers of the Virginius, had rested his defense mainly on the pretended authority of a certain decree issued by Captain-General Dulce, of the 24th of March, 1869, might well have supposed that the Spanish government would have hastened, in some convenient form, official or unofficial, to contradict the assertion of General Burriel. No such contradiction having appeared, however, it becomes my duty to address your excellency on the subject.

Immediately on receiving information of the issue by Captain-General Dulce of the above-mentioned decree, the Secretary of State of the United States addressed the Spanish minister at Washington, Mr. Lopez Roberts, regarding the same, as follows:

"It is to be regretted that so high a functionary as the captain-general of Cuba should, as this paper seems to indicate, have overlooked the obligations of his government, pursuant to the law of nations, and especially its promises in the treaty between the United States and Spain of 1795.

"Under that law and treaty the United States expect for their citizens and vessels the privilege of carrying to the enemies of Spain, whether those enemies be claimed as Spanish subjects or citizens of other countries, subject only to the requirements of a legal blockade, all merchandise not contraband of war. Articles contraband of war, when destined for the enemies of Spain, are liable to seizure on the high seas; but the right of seizure is limited to such articles only, and no claim for its extension to other merchandise, or to persons not in the civil, military, or naval service of the enemies of Spain, will be acquiesced in by the United States.

"This Government certainly cannot assent to the punishment, by Spanish authorities, of any citizen of the United States for the exercise of a privilege to which he may be entitled under public law and treaties.

"It is consequently hoped that his excellency the captain-general of Cuba will either recall the proclamation referred to, or will give such instructions to the proper officers as will prevent its illegal application to citizens of the United States or their property. A contrary course might endanger those friendly and cordial relations beteen the two governments, which it is the hearty desire of the President should be maintained."

Subsequently to this, the Government of the United States received official information from its officers at Havana, that for the decree of Captain-General Dulce, Captain-General Caballero de Rodas had substituted a new decree, that of July 7, 1869, which in effect and language annulled that issued by Captain-General Dulce. But the sixth article of the decree of July 7, 1869, being considered by the Government of the United States to imply a wholly inadmissible claim of right to seize neutral vessels on the high seas contiguous to Cuba, representations in that sense were addressed to the Spanish minister, Mr. Lopez Roberts, the consequence of which was the issue by Captain-General Caballero de Rodas of a new decree of July 18, 1869, as follows

[From the Official Gazette, Havana, July 20, 1869.—Translation.]

"SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

"In view of the determinations adopted by the Government of the United States of America, as reported by his excellency the minister of Spain in Washington, under date of the 15th instant, and which were published in the Official Gazette of the following day, and in order, at the same time, to relieve legitimate commerce from all unnecessary interference, in the use of the faculties which are conferred upon me by the supreme government of the nation I have determined to modify my decree of the 7th instant, leaving the same reduced to the first five essential articles.

"CABALLERO DE RODAS.

"HAVANA, *July* 18, 1869."

Thus it was impossible for the Government of the United States to entertain any doubt whatever of the fact, not only of the annulment of General Dulce's decree, but of the non-existence of any decree on the subject, except as in the five subsisting articles of the decree of Captain-General Caballero de Rodas.

The President of the United States still presumes that no authority whatever exists for the assertion of General Burriel in this respect, and that his action at Santiago de Cuba was not only in flagrant violation of the law of nations, but also a criminal infringement of the laws of Spain.

But in consequence of the uncontradicted assertion of General Burriel, the President instructs me to inquire of your excellency whether it be true that the decree of March 24, 1869, had not been abrogated when the executions in question took place at Santiago de Cuba? Also, whether that decree or anything equivalent to it, respecting jurisdiction on the high seas, is regarded by the Spanish government as still in force? Also, whether the executions made by General Burriel's orders are regarded by that government as having been made under authority of law?

The President also supposes that, if the Government of Spain has omitted hitherto to institute steps for the punishment of General Burriel and his associates in the executions at Santiago de Cuba, or to exhibit any marks of its displeasure, by military degradation or otherwise, the omission must have been caused by the extraordinary political condition of the Peninsula. If this supposition is incorrect, it is important that the same should be known. He therefore directs me to inquire whether proceedings of the character above mentioned have been instituted, and when and where they will probably take place.

Permit me to assure your excellency that these inquiries are not intended or presented in other than respectful spirit toward the government of Spain. Nevertheless, my Government feels that the maintenance of good relations with Spain depends upon the adherence of the latter to the statements and assurances hitherto given to the United States regarding the abandonment of the objectionable decrees, and upon the disavowal and punishment of those who, under the guise of forms of trial, shocked the civilized world by the executions in Santiago de Cuba.

I have, &c.,

C. CUSHING.

No. 262.

Mr. Cushing to Mr. Fish.

No. 60.] UNITED STATES LEGATION,
Madrid, July 10, 1874. (Received August 4.)

SIR: I inclose herewith a communication from the minister of state, in reply to my note on the subject of General Burriel.

The disavowal of General Burriel's publication in this communication is positive and explicit, and so, also, is the declaration that the decree issued by Captain-General Dulce was wholly repealed by that of Captain-General Caballero de Rodas.

In what remains of this communication, the minister of state, in assuming that the conduct of General Burriel is to be regarded as but an incident of the capture of the Virginius, and so discussed, affords all possible advantage to the United States.

The capture of the Virginius, having been in violation of the law of

nations, could not of itself impart any authority to the commandant of Santiago de Cuba; that is clear; but, if it were otherwise, in the massacres perpetrated by General Burriel not only did he proceed in violation of the law of nations, but also, as it is now admitted, in violation of the municipal laws of Spain. Hence his criminality is the legitimate and inevitable consequence of any possible view of the circumstances.

It is the more impossible for the Spanish government to escape these conclusions at the present time, inasmuch as it is earnestly appealing to the sympathy of other governments as against alleged acts of cruelty committed or threatened by the Carlists in the existing civil war.

I propose, therefore, in conformity with instructions, to prepare and present, as soon as possible, a suitable reply to this communication of the minister of state.

I am, &c.,

C. CUSHING.

[Inclosure.—Translation.]

Mr. Augusto Ulloa to Mr. Cushing.

MINISTRY OF STATE, *Madrid, July* 8, 1874.

SIR: I have acquainted myself thoroughly with the note you were pleased to address me, under date of the 27th ultimo, with respect to a writing published on the 14th of April in a Madrid journal, and subscribed by Brigadier Burriel, late governor of the Oriental department of the island of Cuba, in which it appears that its author affirms, among other things, that the decree issued by General Dulce, on the 24th of March, 1869, has never been abrogated.

Concerning this portion of your note, I have the honor to state to you that the appreciations and assertions which Mr. Burriel may have deemed it expedient to publish in that or in any other communication to the press of Spain, or of foreign parts, after ceasing to hold the official post he filled in Cuba, are of his own exclusive responsibility, and it does not pertain to the executive power to restrain, in any way whatever, the right, conceded by the laws to every Spanish citizen, of freely emitting his ideas through the medium of the press.

Neither does the government regard as one of its duties the difficult task of correcting the errors into which, voluntarily or unconsciously, those may fall who, devoid of all official character, and on their own private account, may have recourse to the battle-ground of the press to explain their own acts or discuss those of others. But, even were this not so, in the case which now occupies us, this spontaneous intervention on the part of the government, of which you remark the omission, and which that of Washington awaited, considering it as a fulfillment of a duty, would have been, in my judgment, something more than an act contrary to right procedure, (*un acto improcedente.*) It would have signified that the veracity and good faith which govern all the declarations of the Spanish government were at the mercy of the assertions of any private party who might make them a subject of controversy, making in consequence an official rectification necessary to re-establish the truth. It would signify, in a word, that what the government of the nation had officially and solemnly notified to the country, and to the representatives of friendly powers, only deserved credit so long as it was not placed in doubt on individual authority, by any person whatever.

As you can do no less than comprehend in your enlightened discernment, the government neither can nor ought to descend, *motu proprio*, to this ground.

The Government of the United States assuredly did not fix its attention on these considerations when it expressed surprise at our delay in spontaneously hastening to correct what had been erroneously said by Brigadier Burriel; but persuaded at last that it was neither just nor possible to expect from the Spanish government the abdication of its decorum or any proceedings contrary to its dignity, it has adopted the right path, in which several friendly nations have already preceded it, by resorting to us directly to obtain fitting explanation, which there is no objection to giving it, and which, on the contrary, I have the greatest satisfaction in communicating to it through the authorized medium of yourself.

As early as the 30th of April, my worthy predecessor in this ministry gave a full explanation of this very matter to Her Britannic Majesty's representative, who was pleased to request it in a note of the 23d of the same month; an explanation which it will suffice for me to reproduce in order to satisfy the desires of the Government of the United States.

As soon as the government had cognizance of the decree issued on the 24th of March, 1869, by General Dulce, it communicated to the same, under date of April 22, the requisite orders, to the end that the decree in question should not take effect, (*para que quedase sin efecto*,) and under the same date it brought this to the knowledge of our representative in Washington, who in his turn imparted it to the Government of the United States.

General Dulce having been relieved, and General Don Antonio Caballero de Rodas having been appointed in his place, one of his first acts was the publication of the decree of the 7th of July, in the preamble of which the orders and decrees of the 18th and 26th of February and the 24th of March, of the same year, were positively declared repealed, (*subrogadas*.) The new decree of General Caballero de Rodas contained six articles; and in view of certain observations which were made to the government respecting the difficulty of applying the prescriptions of the last of the said articles, it was deemed fitting to leave, reduced to five, the enacting clauses of the above-mentioned decree in co-operation with the captain-general of Cuba, of all of which information was given to the United States and to the other friendly nations.

To this succinct statement the Spanish government has only to add the assurance that not one of the captains-general who have succeeded Mr. Caballero de Rodas in the government of the island of Cuba has exhibited the slightest doubt with respect to the repeal and annulment of the decree of the 24th of March, 1869.

With respect to the legislation referring to jurisdiction on the high seas, the Spanish government only regards as in force that established by international maritime law, and accepted by all nations, as well as that agreed upon in existing treaties.

As explicitly as I have had the honor to reply to the two preceding questions, would the Spanish government wish to answer the remaining points contained in your note; but all these being so intimately bound up with the main question of the seizure of the Virginius, it would be impossible to do so without prejudging many facts of which proof is still pending, and which, as I have had occasion to state in my note of yesterday, it is best should be previously cleared up and settled. When this is done, each of the two governments, with the loyalty which distinguishes them, will accept for its part the obligations imposed upon them and the rights conceded to them by the final result of this important question.

I improve this opportunity to repeat to you the assurances of my most distinguished consideration.

AUGUSTO ULLOA.

No. 263.

Mr. Fish to Mr. Cushing.

No. 44.] DEPARTMENT OF STATE,
Washington, July 22, 1874.

SIR: Dispatches addressed by you to this Department, numbered 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47, have been received.

With reference to your No. 44, of the 27th ultimo, relating to the article published by General Burriel in one of the newspapers of Madrid on the 14th of April last, I have to state that your action, as therein set forth, is approved by this Department.

I am, &c.,

HAMILTON FISH.

No. 264.

Mr. Cushing to Mr. Fish.

No. 64.] LEGATION OF THE UNITED STATES,
Madrid, July 22, 1874. (Received August 18.)

SIR: I inclose herewith a copy of note to the minister of state on the subject of officers, crew, and passengers of the Virginius.

On account of some new incidents bearing on the case, I withhold, for a few days, response to Mr. Ulloa's note respecting General Burriel.

I have, &c.,

C. CUSHING.

[Inclosure.]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, July 21, 1874.

SIR: I have the honor to acknowledge reception of your excellency's note of the 7th instant, in reference to the reparation claimed by the United States in behalf of the crew and passengers of the steamer Virginius; and, after according to the matter such due reflection as its importance requires and as respect for your excellency dictates, I beg leave herewith to present the view of the general question entertained by my Government.

* * * * * * *

These and other pertinent suggestions might be made, I repeat, if the question were an open one, which, however, it is not, it having been explicitly determined by the protocol of November.

Unlawful, therefore, as was the capture of the Virginius, prejudicial as this capture was to the maritime rights of all nations of either hemisphere, injurious as it would have been, in the long run, to the interests of Spain herself to have any such pretended right of capture interpolated into the law of nations; nevertheless, and all these premises being admitted, and whilst the mere capture itself would have constituted serious cause of complaint, still, if the Spanish authorities in Cuba had subsequently pursued the course indicated by international law and by the universal practice of nations; that is to say, if they had taken the vessel into port for examination, and for possible trial before a court of admiralty, simply detaining uninjured her crew and passengers meanwhile, in such circumstances the injury done to the United States, although seriously justifying demand of redress, would not have assumed the portentous proportions which it actually did in consequence of the wholesale massacre of her officers, crew, and passengers, perpetrated at Santiago, which shocked the public sense of Europe as well as of America.

It is of these incidents which it is my duty now regretfully to speak, and to characterize them as they deserve, in the name of international law, of humanity, and civilization, by aid of the lights furnished by Spain herself as well as by other governments.

For it was the great fact of the inhuman slaughter in cold blood at Santiago de Cuba of fifty-three human beings, a large number of them citizens of the United States, defenseless persons, shot without lawful trial according either to the law of nations or to treaty, shot without any valid pretension of authority in the laws of Spain herself, and to the horror of the whole civilized world—this it was which produced such intense emotion in the United States, and which placed the two nations in imminent peril of war, so happily averted by the superior wisdom and patriotic discretion of the governments of Spain and the United States.

Your excellency will pardon me for repeating that this act has no conceivable justification, either in the law of nations or in the municipal law of Spain, or in any conventional law, it being, on the contrary, in plain violation of treaty with the United States.

It was a dreadful, a savage act.

Your excellency, I feel sure, cannot condemn this language as too strong for the actual circumstances. For is it not the very language constantly applied at this day, in public documents and debates, to other acts of the same class, and especially to the shooting of defenseless prisoners? Is it not the mere echo of the cry of indignation and of horror which comes up from all Europe, in view of the military execution of twenty-three prisoners at Estella by Dorregary—the lamentable voice, as it were, of the outraged conscience of Christendom—and which still rings in our ears?

Nay, does not the fact of the unjust military execution of a single German subject at Estella inspire all Germans with indignation, and can the United States be silent in face of the equally unjust military execution of many of her citizens at Santiago de Cuba?

Pardon me for thus alluding to incidents of civil war in this country, which, however, have ceased to be domestic incidents, and belong now to the general history of our times, and which, strikingly in contrast as they are with the conduct of the armies of the republic, may not improperly be alluded to here, in view of their manifest pertinence, and at the same time in the spirit of perfect deference for the government of Spain.

Indeed, it affords me gratification to witness and to honor the expressed determination on the part of the Spanish government, and of its generals in the field, never to lose sight of the sacred rights of humanity even in the presence of the worst excesses of pitiless war and in the face of whatsoever provocation.

But that which is wrong at Estella cannot be right at Santiago de Cuba.

I will not cease to believe, therefore, that the government of Spain, manifesting as it does thus conspicuously its utter condemnation of such heinous acts, and providing indemnity for the families of the victims thereof, will in the same spirit of exalted self-respect be prepared to do justice to the present reclamations of the United States.

With which I have the honor to renew to your excellency the assurance of my highest consideration.

C. CUSHING.

No. 265.

Mr. Fish to Mr. Cushing

No. 57.] DEPARTMENT OF STATE,
Washington, August 15, 1874.

SIR: Your dispatch No. 60, inclosing a copy of the reply of the minister of state to your note on the subject of General Burriel, is received.

It is satisfactory to know that the information previously communicated to this Department, concerning the repeal of the decree issued on the 24th of March, 1869, by General Dulce was correct, and that the government of Spain in no way supports the statement of General Burriel that the massacre of the passengers, officers, and crew of the Virginius was authorized by the terms of a decree in force in the island of Cuba. It may be that it affords an advantage to the United States on this question to regard the conduct of General Burriel simply as an incident of the capture of the Virginius, but every delay on the part of the Spanish government, in taking ground against the acts of General Burriel, so justly complained of, and in visiting upon him the displeasure of his own government, is unsatisfactory and is to be regretted.

In the opinion of the President the time has come when the government of Spain should no longer delay the consideration and adjustment of these questions.

I am, &c.,

HAMILTON FISH.

No. 266.

Mr. Fish to Mr. Cushing.

No. 59.] DEPARTMENT OF STATE,
Washington, August 21, 1874.

SIR: Your dispatch No. 41, inclosing a copy of your note to Mr. Ulloa, presenting the reclamation on behalf of the officers, crew, and passengers of the Virginius, was received upon the 17th of July. Upon a careful reading of this note to the minister of foreign affairs, it appeared to place the reclamation, even in the case of those who had been executed, principally, if not entirely, on the ground that the capture of the vessel was illegal. While it may be said that, the capture being illegal, reparation must follow for all the subsequent acts, including the executions, at the same time it seemed that great stress might be said upon the fact, at least so far as American citizens were affected, that such bloody deeds as were enacted at Santiago were contrary to

the usages of civilized nations, in violation of treaty obligations, without parallel, and entirely without excuse, and demanded full and complete reparation, entirely apart from the question of the illegality of the capture of the vessel.

* * * * * * *

The Department is now in receipt of your No. 64, inclosing a copy of your reply to the minister of state. Your reply has been read with care and lively satisfaction. You have very fully and properly exposed the fallacy of the arguments of the minister of foreign affairs looking to further delay in the consideration of the question, and have in terms fitting, and not too severe, denounced the cold-blooded murders of these defenseless people which took place at Santiago. No language can be too severe when applied to these bloody acts.

Your presentation of the case, and the light in which you have placed it, meet with the entire approval of this Department.

It is most disappointing and unsatisfactory to learn, after the presentation of the claim for reclamation had been delayed many months, when ample time had been given for every investigation which could be required, when an opportunity had arisen for the government of Spain to meet the question freed from the excitement which surrounded the acts which were complained of, when even the Spanish government had become loud in its expressions of horror at the execution of defenseless prisoners, in cold blood and without trial, that the answer submitted to your demand for redress for the occurrences at Santiago should be simply a plea for delay.

You will, on proper occasion, express to the government of Spain the strong feeling of this Government, that the questions so fully presented by you should be considered without delay, and that ample reparation, now too long deferred, should be promptly furnished.

This Department awaits with interest your further communication on this question, and the further steps to be taken by you in relation to General Burriel, as indicated in your No. 64.

I am, &c.,

HAMILTON FISH.

No. 267.

Mr. Cushing to Mr. Fish.

No. 106.] LEGATION OF THE UNITED STATES,
Madrid, September 27, 1874. (Received October 23.)

SIR: I have the honor to inclose herewith copy of a communication addressed by me to the minister of state on the 24th instant, in relation to the affair of Brigadier Burriel.

I have, &c.,

C. CUSHING.

[Inclosure.]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, September 24, 1874.

SIR: I find myself constrained, not only in obedience to express general and special instructions of my Government to this effect, but also in the intimate personal conviction of the reason and justice of the considerations on which such instructions are founded, to address your excellency again in reference to the acts of Brigadier Burriel, while governor of the eastern department of the island of Cuba, and to what he has said or done, since the time of his relief from that charge, and his return to the peninsula.

It affords me sincere gratification to be able to say, in the first place, that the President of the United States does full justice to the frankness and explicitness with which your excellency has been pleased to disavow all responsibility of the Spanish government for the publication made by Brigadier Burriel, in one of the newspapers of Madrid, in April last, in which that person undertook to justify the summary massacre of fifty-three persons of the crew and passengers of the Virginius, on the plea of this atrocious act being in conformity with and execution of a certain decree issued by Captain-General Dulce; and for the explicitness and frankness, also, with which your excellency has been pleased, at the same time, to contradict so peremptorily the baseless assertion of that person of the existing force and validity of the decree in question.

In declaring, as your excellency does, that General Dulce's decree was repealed by that of General Caballero de Rodas, and has never since been revived, your excellency justifies the understanding of the Government of the United States in this respect and frees that of Spain of all shadow of suspicion in the premises; which suspicion, indeed, did not exist until awakened by the extraordinary audacity of Brigadier Burriel in assuming to pass over the decree of Captain-General Caballero de Rodas, and fall back on that of General Dulce, in the desperate attempt to extenuate one of the most signal acts of cruelty and barbarity which the present age has witnessed, and which attempt on his part so to cover up his crimes did, in fact, involve imputation either express or implied—but that imputation, happily, a false one—of bad faith on the part of his own government.

It is satisfactory, also, to the President to know, as stated in your excellency's note, that your predecessor in the ministry of state had already given explanations in this matter, to the same effect, in a note addressed by him to the representative of the British government.

Thus, the honorable attitude of the Spanish government in this respect, and its perfect good faith in reference to the repealed decree of Captain-General Dulce, are doubly substantiated, and the honor of Spain is thoroughly vindicated as against the unqualifiable aspersions cast upon it by Brigadier Burriel.

But while authorizing me to express entire satisfaction with the declarations thus far made by your excellency, the President instructs me further to say that the contents of your excellency's note confirm and fortify his opinion that it would be convenient for the Spanish government, in proper regard to the amicable relations of the respective governments concerned, to subject Brigadier Burriel either to summary punishment or to trial by court-martial, as may be most in conformity with the military jurisprudence of Spain.

In reference to this part of the subject it now becomes my duty to submit to your excellency some further observations, specially applicable to the case of Brigadier Burriel as it now stands.

Under false pretense of the subsistence of a decree of Captain-General Dulce, which decree he could not but know had been repealed by Captain-General Cabellero de Rodas, this person perpetrates at Santiago de Cuba an act of wholesale ferocity and barbarity, for which no parallel then existed in modern history, or has until now existed previous to the similar acts of atrocity of Dorregary at Estalla, and of Saballs at Olot.

Not content with the perpetration of this great crime at Santiago de Cuba, under false pretense of law or superior authority, but without any such justification in fact, as he could not but have perfectly well known, he now, on his return to Spain, presumes to put forward these false pretenses in the form of a solemn appeal to the world, addressed to the highest political and literary journal of Europe, and in so doing impliedly accuses his government, falsely, however, of scandalous breach of good faith in respect of the assurances it had previously given to foreign governments touching the repeal of General Dulce's decree by that of General Caballero de Rodas.

Now, it may be admitted, as your excellency suggests, that it is not *incumbent* on any government to take notice of publications in the newspapers. It will do so, or it will not, in its discretion or in accordance to the seriousness of the circumstances. Thus, in the case of the false rumors set on foot by the enemies of Spain in the United States,

respecting the alleged purpose of the Spanish government to cede Puerto Rico to Ger many, the Spanish government might well refuse to condescend to contradict the state ment officially, unless called upon officially so to do, and so it might leave the falsehood to expire of itself or to be contradicted by the person most directly interested, namely, Admiral Polo de Bernabé, as it has been in such terms of just and honorable indignation.

But suppose—what is otherwise impossible, save as a hypothetical supposition—suppose that, after being relieved from duty as minister, Admiral Polo himself had been the author of this false rumor, and had propagated it in a solemn communication addressed to the Revue des Deux Mondes, if in such a case the Spanish government should not condescend to go into the newspapers to correct false rumor, would it not have something to say to the inventor and propagator of the falsehood, and he an officer high in the military service of Spain?

In like manner, when Brigadier Burriel, in the face of the fact that the decree of Captain-General Caballero de Rodas did, in express terms, repeal the decree of General Dulce, and in the face of the further fact that the Spanish government had given to other governments the most explicit assurance of this repeal, and thus, in effect, pledged its faith to the non-existence of the decree of General Dulce; when, I say, in the face of these facts, Brigadier Burriel asserts, in a formal publication, the continued legal existence and effect of that decree, thus impeaching the good faith of his government and offending and insulting the honor of his country, will not the government find some article of the military code of Spain importing condign punishment of the high officer of the army who does this great wrong to his country and his government? I will not enlarge on this topic, because it less directly concerns my Government than the acts perpetrated by Brigadier Burriel at Santiago de Cuba, to which the rest of this note will be dedicated.

Brigadier Burriel had undertaken to maintain that the shooting of unarmed prisoners in the gross, captured on the high seas, and outside, of course, of the territorial waters of Spain, was justified in legal theory by the letter and spirit of the decree of General Dulce.

Your excellency has disposed of this pretended legal justification of the act, by declaring, as good faith induced you to do, that the decree of General Dulce had been repealed by that of General Caballero de Rodas, and did not exist as law at the time of the capture of the Virginius and of the execution of her crew and passengers at Santiago de Cuba.

I might well assume, in the absence of this decree of General Dulce, that neither the capture nor the executions were justifiable by any provision of the municipal jurisprudence of Spain.

I go further, and venture to suggest that if there did exist any text of the domestic laws of Spain capable of being forced into this question—I do not stop to inquire if there be any such—I say no provision of local law, if any such there be, could apply to citizens of the United States, or to subjects of Great Britain, found on the high seas, and beyond the jurisdictional waters of Spain.

In this remark I associate, as the note of your excellency does in effect, subjects of Great Britain with citizens of the United States, since it is not only a question between the United States and Spain, but also between Great Britain and Spain; and thus, of imperative necessity, it passes from the narrow domain of municipal law into the higher and broader region of the law of nations.

Your excellency plainly expresses this idea by saying, in the note under consideration, that, "with respect to legislation referring to jurisdiction on the high sea, the Spanish government considers in force only that established by the maritime international law and accepted by all nations, or that stipulated in subsisting treaties."

In what provision of subsisting treaties or in what text-book of the law of nations can Brigadier Burriel discover any justification or extenuation of these acts? He and other unadvised persons talk loosely about "pirates" and "piracy" in connection with the Virginius and her crew and passengers. But these phrases of popular prejudice and superficiality, which may be fit for the columns of angry newspapers, do not belong to the language of diplomacy or jurisprudence. And I take pleasure in recognizing that your excellency declines to descend to the use of any such inappropriate language in the discussion of the case of Brigadier Burriel.

In truth, it is palpably absurd to apply the term "piracy" to the voyage of the Virginius, or the term "pirates" to her crew or passengers. The essence of piracy, by the law of nations, as universally defined in the text of all writers on public law and of all books of doctrine and jurisprudence, is *armed cruising for the purpose of pillage and plunder*, without lawful authority of any government. Such persons only are pirates, *according to the law of nations*. And there is no suggestion or pretense that the Virginius was fitted out for any such purpose, or that she was armed as a cruiser, or that she ever made or attempted, or intended to make or attempt, any capture, prize, pillage, or plunder. Whatever, if anything, there may have been wrongful in the character of the Virginius, she was not a piratical ship by the law of nations, nor her officers and crew pirates.

I adopt in this respect the language of the dispatch, applicable to this point, of Earl Granville to Mr. Layard, both because of the clearness and precision of the language of that dispatch, and because of the absolute identity of the relation of the two governments, in this respect, to that of Spain:

"The real ground of complaint, Her Majesty's government hold," says Lord Granville, "is that, even assuming the vessel to have been lawfully seized and the crew properly detained, there was no justification for their summary execution after an irregular proceeding before a drum-head court-martial. No possible aspect of the character of the Virginius and her crew could authorize or palliate such conduct on the part of the Cuban authorities. There was no pretense for treating such an expedition as piracy *jure gentium*.

"If the Virginius was to be regarded as a vessel practically engaged in a hostile or belligerent enterprise, such treatment would not be justifiable. Much may be excused in acts done under the expectation of instant damage in self-defense by a nation as well as by an individual. But, after the capture of the Virginius and the detention of her crew was effected, no pretense of imminent necessity of self-defense could be alleged; and it was the duty of the Spanish authorities to prosecute the offenders in proper form of law, and to have instituted regular proceedings on a definite charge before the execution of the prisoners.

"Her Majesty's government maintain that there was no charge, either known to the law of nations or to any municipal law, under which persons in the situation of the British crew of the Virginius could have been justifiably condemned to death.

"They were persons not owing allegiance to Spain; the acts done by them were done out of the jurisdiction of Spain; they were essentially non-combatants in their employment; and they could by no possible construction be liable to the penalty of death."

I assume, therefore, as your excellency does, that here is no question of the municipal law of any country, but only of international right, as settled by theory, practice, or convention.

And, in reasoning with a person of your excellency's enlightenment and large experience in administrative and diplomatic affairs, it would be waste of time here to enter into the consideration of those questions of *assimilated* piracy, which arise out of the local law of sundry governments or special provisions of treaty, none of which apply to the case of the Virginius. It is indisputable, in short, that in the eye of the law of nations he only can be characterized as a pirate who puts himself in the condition of *hostis humani generis*—a sea-robber of all mankind. It does not suffice that he should be the private enemy of one government only; as, for instance, Spain, or the United States, or Great Britain.

Why, indeed, should we not fix our attention at once and wholly on the undeniable truth of the case, namely, that if there were anything wrong in the acts or the intention of the Virginius, it was only that *quasi* wrong, the relations and consequences of which are thoroughly defined by the law of nations, as understood in all Europe and America, namely, the transportation of military persons or stores, which may subject the vessel or cargo to condemnation, but which never to this day was deemed a cause of shooting the officers and crew as pirates, except in the perverse imagination of Brigadier Burriel.

In fine, it is too plain for contradiction or dispute that the wholesale shootings perpetrated by him at Santiago de Cuba were an act of mere arbitrary military violence, in the highest degree unwise and inexpedient as well as criminal, falling at once into the category of the atrocities committed by the Carlists at Estella, at Cuenca, and at Olot. Historians in all future times will speak in the same accents of horror of the military assassinations of Estella, of Olot, of Cuenca, and of Santiago de Cuba.

The government of President Serrano would repel with indignation the idea that this government, the supreme representation of Spain and the Spanish nation, is to assume the responsibility of those acts of transcendent cruelty on the part of Dorregary, of Saballs, of Alfonso de Este, although they be Spaniards.

Will not the government of President Serrano in like manner repel all responsibility for the acts of equally transcendent cruelty on the part of Brigadier Burriel, although a Spaniard in the service of a previous government?

Suppose a military officer of Spain to-day, operating against the Carlists in Vizayo, Guipuzcoa, Alava, Navarre, Catalonia, Aragon, Valencia, or Murcia, should arbitrarily shoot in cold blood, with or without pretense of verbal court-martial, fifty-three prisoners of war, whether Carlist-Spaniards, or even Carlist-Frenchmen. What must follow? Would not such officer be subject to immediate destitution and punishment?

Spain has appealed to the world in the eloquent and impressive language of your excellency's diplomatic circular, and even more impressively and by the language of action, in the decrees of the executive power, against the massacres of Estella and Olot. Can she to-day, in the face of these appeals to Europe in condemnation of the barbarities of Dorregary and Saballs, justify—nay, accept and affirm the barbarities of Burriel, perpetrated, as we know, contrary to the purpose—nay, in violation of the orders of the supreme government of the time?

Permit me respectfully to suggest that, for Spain now to assume such responsibility would not only be a measure of direct affront to the United States, and to Great Britain, equally aggrieved with the United States, but indirectly of affront also to Germany, to Austria-Hungary, to Italy, to Portugal, to Belgium, to the Netherlands, and to all the rest of Europe now drawn toward General Serrano's government, not only as representing the conservatism but also as representing the civilization of Spain. I cannot suppose that your excellency will entertain the idea that such acts as those under consideration are at any time beneficial to the government in whose name they may have been perpetrated. Such a supposition would carry us back into the times and usages of mere barbarian and savage war, even to worse times than the invasions of Attila and Alaric.

But if a Christian government in the nineteenth century could be tolerated in perpetrating such acts because of any false imagination of the benefits to be derived from them, is it not self-evident that if those acts be to the prejudice of any foreign government, then the government which enjoys the benefit, such as it is, should, with no grudging hand, pay the price of that benefit in reparation of the injured government?

But your excellency will concur with me, I feel sure, in doubting the ultimate usefulness of any wrongful act. Certainly, in the present case, the imaginary immediate advantage to the Spanish colony of Cuba was nowise commensurate with the manifest injury to Spain herself. She has no cause of thanks to Brigadier Burriel.

If the foregoing considerations possess in fact all the cogent force with which they present themselves to my mind, there does not exist that occasion which your excellency supposes for the further discussion of the true legal character of the Viginius, eliminary to the trial or punishment of Brigadier Burriel. It is not the capture of e Virginius which is here in debate. If, on being captured and taken into Santiago Cuba, that vessel had been carried before a court of admiralty for regular trial according to law and treaty—if, meanwhile, her officers, crew, and passengers had been held for examination in like manner, according to law and treaty—there would have been nothing in the case, such as there is now, of superlative and surpassing gravity. It was the rash, cruel, lawless, and criminal act of Brigadier Burriel which raised the case into a perilous international controversy between Spain and the two governments of Great Britain and the United States.

The conclusion is inevitable, that Brigadier Burriel has, by his own deeds of wanton wrong, rendered himself amenable to the penal laws of Spain.

The President of the United States, therefore, has the amplest possible reason to expect that the Spanish government will in due time, and with no unnecessary delay, vindicate her own dignity and her own laws by subjecting to punishment the contumacious officer who, by mingled wickedness and folly, has brought all these calamities upon his country in wantonly giving occasion to the present controversy between Spain and the United States.

I make no account of the rumor that, under present circumstances, Brigadier Burriel can be an aspirant for the cross of San Hermenegildo, the recompense not only of constancy in military service but of untarnished honor—*constancia en la milicia y honor acrisolado.*

The President conceives that that which is expected by him of Spain is no more than what is done by all other governments in like circumstances, and which the United States themselves have done in repeated and signal instances.

The German government did not hesitate to subject to trial by court-martial a distinguished officer of its own, Captain Werner, who, in the performance of an act beneficial to the Spanish government, had apparently trespassed on the sovereign rights of Spain.

Not long since a distinguished and meritorious officer of the Navy of the United States, Captain Collins, also trespassed on the sovereign rights of Brazil, in performing an act beneficial to the United States and involving no actual injury to Brazil. But, on the suggestion of the Brazilian government, he was tried by a court-martial and condemned on the precise charge of a technical violation of the law of nations.

During the same period of time a similar act of trespass on the jurisdictional waters of Spain occurred on the part of another respectable officer of the Navy of the United States, Commander Hunter, and he also was in due time ordered before a court-martial on the charge of a violation of the law of nations to the prejudice of Spain, and was tried, condemned, and sentenced. These proceedings were had quite as much for the vindication of the honor of the United States as for the satisfaction of the Spanish government. It is true, nevertheless, that the Spanish government called for such reparation with the same earnestness that the Government of the United States now calls for reparation in the case of Brigadier Burriel.

Passing over other examples of the same class, it will suffice to refer to one more of conspicuous significance, also occurring in the relations of Spain and the United States.

David Porter was an officer second only to the highest in rank in the Navy of the United States. He had been pre-eminently distinguished in many famous actions of

war, and had attained, deservedly, the universal respect of his countrymen. Being employed in the command of a fleet in the West Indies, for the pursuit there of pirates, genuine pirates—*hostes humani generis*—with which those seas then swarmed, the United States in this respect acting in concert with Spain, Great Britain, and other governments, he did an act which, although beneficial to Spain, was an act of technical violation of the sovereignty of Spain. For this error he was tried by court-martial on accusation of violating the law of nations, condemned, and sentenced, in spite of his high rank, great services, and unsurpassed personal popularity.

Assuredly, therefore, what the United States themselves have done, of their own accord, willingly, spontaneously, in like circumstances, in order to render international justice to Spain, it would be no derogation on her part to do for the satisfaction of the United States.

Nay, in the case of Porter, he, with the proud spirit of a gallant soldier, on finding that his act had been impugned, and asserting that he had been guilty of no wrong in the premises, himself demanded that court of inquiry, which resulted in his being tried by court-martial.

Brigadier Burriel has also been guilty of a violation of the law of nations, and of such intensity and aggravation that the inculpated acts of Werner, of Collins, of Hunter, of Porter, are but as nothing in comparison. Neither of them had outraged the conscience of mankind, as Burriel did; neither of them had done acts of inhumanity and brutality, like those of Burriel, at the thought of which all men shudder with horror; neither of them had slaughtered helpless captives by the wholesale, as Burriel did; neither of them had perpetrated enormities like those of Burriel, to the eternal disgrace of themselves and to the dishonor of their name and nation, and of the human race itself; neither of them had, like Burriel, by the commission of a crime of monstrous iniquity, but not less of monstrous unwisdom and inexpediency, involved their country in critical conflict with two powerful states; they had not their hands dripping with innocent blood; they had simply committed a technical breach of the rights of national sovereignty to the prejudice of no one and to the benefit of all the world; and yet they were subjected to the rigor of penal law by the voluntary command of their own governments, impelled by motives of national self-respect and of international comity. And shall this Brigadier Burriel go "unwhipped of justice?" Will Spain be less regardful of the claims of international right and comity than other governments? I cannot and I will not believe it of her.

And what an example is not that of Porter for Brigadier Burriel? If he be the man of honor which an officer of his rank in the army of Spain should be; if he be, as he professes, confident of the rightfulness of his acts, should he not, instead of filling the newspapers with shallow and disingenuous arguments on the subject, manfully come forward and demand a trial by a court of his peers, and thus, by the only appropriate means, vindicate his character, if it admits of vindication, and also relieve his government and his country of the painful controversy which he has brought on between Spain on the one hand, and on the other the United States and Great Britain?

Juan Burriel, I repeat, might well imitate the example thus set to him, and this without any diminution of personal dignity; for he needs to live many years of a higher life than heretofore, and to fill those years with loftier achievements, in order to approach to the brilliant military fame and the personal authority and popularity of David Porter.

I assure your excellency that nothing could be more unwelcome to me than the duty of submitting these observations to the attention of the Spanish government. But it is a duty, the performance of which has been the necessary and unavoidable result of the conduct of Brigadier Burriel. On his head by the blame. And I sincerely trust that, even without any necessity on your part of prejudging the imputed blood-guiltiness of Brigadier Burriel, your excellency will perceive in the arguments submitted by me, and especially in the examples cited of what other governments, including the United States, have been accustomed to do in the same circumstances, abundant justification for such action in the premises on the part of the Spanish government as, while adding new luster to the proverbial honor of Spain, shall tend to strengthen the ties of international amity between her and the United States.

I avail myself of this occasion to tender to your excellency the assurance of my highest consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 268.

Mr. Fish to Mr. Cushing.

No. 84.] DEPARTMENT OF STATE,
Washington, October 29, 1874.

SIR: Your dispatch No. 106, dated September 27, transmitting a copy of your note to the minister of state, further urging the prosecution and punishment of General Burriel, has been read with satisfaction and approval.

It is noticed that no direct reference is made to the stipulations to the protocol of November 29, as follows:

"It being understood that Spain will proceed, according to the second proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts, and inflict punishment on those who may have offended."

The second proposition made to General Sickles was as follows:

"So, if it be proved that, in the proceedings or sentences pronounced against foreigners by the authorities of Santiago de Cuba, there has been an essential failure to comply with the provisions of our legislation or of treaties, the government will arraign those authorities before the competent tribunals."

By the terms of the protocol the government of Spain bound itself, now almost a year ago, to investigate whether General Burriel had infringed Spanish laws or treaty obligations in his barbarous and cruel acts. There is no evidence that any investigation has been commenced, and the facts may be said to be all admitted. The decision upon this question ought not to be delayed, and is not, by the terms of the protocol or otherwise, dependent on any other question. It is deemed important that the government of Spain should meet this question, and decide whether General Burriel did or did not infringe Spanish law and treaty obligations by his acts at Santiago. There can be but one answer to this question, and it is believed that the government of the United States may properly insist that it be decided.

I am, &c.,

HAMILTON FISH.

No. 269.

Mr. Cushing to Mr. Fish.

No. 171.] LEGATION OF THE UNITED STATES,
Madrid, December 1, 1874. (Received December 26.)

SIR: I inclose herewith copy of a note addressed by me to Mr. Ulloa yesterday, insisting on the arraignment, in conformity with stipulation by protocol, of local authorities implicated in the transactions at Santiago de Cuba. I trust nothing will have been lost by the omission to make this point in previous notes. Indeed, it seems to me quite opportune at the present time.

I have, &c.,

C. CUSHING.

[Inclosure.]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, November 30, 1874.

SIR: I have received instructions to call the attention of your excellency, in connection with pending negotiations, to certain stipulations of the protocol of November 29, 1873, as follows:

"It being understood that Spain will proceed according to the second proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts, and inflict punishment on those who may have offended."

The second proposition made to General Sickles was as follows:

"So, if it be proved that, in the proceedings or sentences pronounced against foreigners by the authorities of Santiago de Cuba, there has been an essential failure to comply with the provisions of our legislation or of treaties, the Spanish government will arraign those authorities before the competent tribunals."

It is to be observed that the above stipulation on the part of the Spanish government is definite and precise, and that it is not, by the terms of the protocol or otherwise, dependent on any other question.

And it is further to be noted that the particular stipulation assumes that the Spanish government will, of its own motion, arraign the offending authorities before the competent tribunals, provided it should be proved that, in the proceedings against foreigners at Santiago de Cuba, there was an essential failure to comply with the provisions of the legislation of Spain or of her treaties with other governments.

As a question of construction, it seems to me to be the manifest intent of the protocol that the illegality of the proceedings in question is to be ascertained by the spontaneous act of the Spanish government. "It being understood" (are the words) "that Spain will proceed * * * to investigate," &c.

I assume that such failure, if not otherwise apparent to the Spanish government, has been fully established in the communications on the subject, especially that of September 24, regarding Brigadier Burriel, which I have had the honor heretofore to address to your excellency.

Hence, if (which I cannot admit) there be room to infer, from the tenor of the "second proposition" above cited, that it might be incumbent on the United States to show to the Spanish government the illegality of the proceedings at Santiago de Cuba, and that the Spanish government might, in strict right, wait for such manifestation, that has now been done, and, according to the express and explicit terms of the stipulation, it would now devolve on the Spanish government to "arraign those authorities before the competent tribunals."

Permit me to add, that I have been informed, and have good occasion to believe, that on this point the Spanish government at the time consulted the Señores Canovas, Calderon Collantes, Alonso Martinez, Nocedal, Rivero, Martos, Alvarez, (D. Cerilo,) Duque de la Torre, and Marquis del Duero, and that all these eminent personages were unanimously of opinion that there was no legal justification for proceedings such as had been had at Santiago de Cuba.

In view, therefore, of the established illegality of those proceedings, my Government feels authorized to expect that the action in the premises, stipulated by the Spanish government, will, as a matter of course, now take place, as one of the elements of the full and final settlement between the two governments of this painful controversy. I have regarded it as due to the frankness which has presided over all our official intercourse, to our mutual earnest desires and hopes of accommodation, and to the confidence, on my part, in the good faith of the Spanish government, which I have constantly expressed to my own, to submit these suggestions to your excellency at this time.

I avail myself of this occasion again to offer to your excellency the assurance of my highest consideration.

C. CUSHING.

No. 270.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *December* 4, 1874.

Fish, Secretary of State, Washington:

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Regarding Burriel, Mr. Ulloa says substantially:

With reference to your note of 30th November, expressing the desire of the United States to see protocol fulfilled respecting second proposition of Sickles, Spain desires and is ready to adhere faithfully to protocol, and will give orders that inquiry shall be instituted by the competent tribunals as to conduct of authorities at Santiago in trial and execution of American citizens, exacting of them due responsibility for infringement of Spanish laws or treaties. The judicial power being independent of the executive, no responsibility rests on the latter for judicial acts of the tribunals of Santiago, which have operated within their attributions, and are only subject to such responsibility as may be exacted of them in the *juicio de residencia*, the only competent tribunal, even though the government, on December 26, separated Burriel from his command.

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CUSHING.

No. 271.

Mr. Cushing to Mr. Fish.

No. 177.] LEGATION OF THE UNITED STATES,
Madrid, December 5, 1874. (Received December 24.)

SIR: I inclose herewith translation of an official note from the minister of state. * * * * * *

I am compelled to postpone * * * some observations which have occurred to me on the subject.

* * * * * * *

I have, &c.,

C. CUSHING.

[Inclosure.—Translation.—Extract.]

Mr. Augusto Ulloa to Mr. C. Cushing.

MINISTRY OF STATE,
Madrid, December 3, 1874. (Received December 3, 1874—12 night.)

* * * The terrible consequences which the rash and criminal expedition of the Virginius has had for some of the unhappy persons who were on board—consequences which the orders of the executive power could not avert, being unfortunately received in Santiago de Cuba too late by reason of the interruption of the telegraph-lines by the insurgents—could not do less than move the generous sentiments of the Spanish government, so painfully situated between the strict fulfillment of the laws in special circumstances, and the impulses of humanity and of commiseration common to all honorable men, but which should be violently stifled before the imperious voice of duty and the defense of the high interests confided to the public powers.

That duty fulfilled, sentiments of humanity may still recover all their force, and endeavor to seek, not a remedy for an irreparable punishment, but alleviation and consolation for those persons who, without having had part in the commission of the crime, participate fatally in the terrible consequences of the expiation imposed by law. * * * * * * * * *

It remains to me to answer, Mr. Minister, the last note which, under date of the 30th ultimo, you have been pleased to address me, and in which you express to me the desire of the Government at Washington to see the fulfillment of the article of the protocol of November 29, 1873.

The government desires and is prepared to fulfill in every point all the stipulations contained in the protocol of the 29th of November, 1873; and considering the contents of the second proposition made by your predecessor as one of the elements of the complete and final settlement of the question which occupies us, it will proceed to give the proper orders, to the end that by the competent tribunal shall be instituted an inquiry with respect to the conduct of the authorities of Santiago de Cuba who intervened in the conduct of the trial and sentence of the American citizens who were executed in that city, exacting of them the responsibility which they may have incurred for infractions of law or of international treaties. You are not unaware that one of the bases of our political constitution is the independence of the judicial power and the liberty of action with which it performs its functions within its own sphere, without the least intervention of the other powers; and you will understand, therefore, that no responsibility whatever can have rested on the government, as the executive power, either in the proceedings or in the judgment of the tribunals of Santiago de Cuba, which have operated within the circle of their attributions, although of course subject to the responsibility borne of the self-same independence of their functions, and which may be exacted of them in the *juicio de residencia*,* which is the competent jurisdiction; although the government *motu propio* decreed on the 26th of December, 1873, that is, consequent upon the affair of Santiago, the removal from command of Brigadier Burriel, then comandante-general of the eastern department of the island of Cuba.

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AUGUSTO ULLOA.

The MINISTER PLENIPOTENTIARY *of the United States.*

No. 272.

Mr. Fish to Mr. Cushing.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 7, 1874.

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Third. On third point Spain seems to claim that the investigation into the conduct of authorities at Santiago must be made by courts whose independence of action from political or military control is asserted. This is inconsistent with the practice which has been pursued in Cuba, and with rights which have been asserted to enforce martial law.

Burriel justified his acts under an alleged extraordinary decree which had been issued, but revoked. He did not profess to act, nor did he proceed, under ordinary judicial proceedings.

It is, therefore, illogical to claim that the investigation must be through the ordinary judicial channels.

You will take care on this point that Spain is not released from, and does not change, her engagement under the protocol signed with Polo, which ought to have been fulfilled many months ago.

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FISH,
Secretary.

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* The investigation instituted with respect to one who has held public office as to his conduct in the discharge of his duties. The investigating court combines inquisitorial and punitory functions.—C. C.

No. 273.

Mr. Fish to Mr. Cushing.

No. 108.] DEPARTMENT OF STATE,
Washington, December 30, 1874.

SIR: Your dispatch No. 177, with which was inclosed a copy of the elaborate note of Mr. Ulloa on the question of the Virginius, in reply to your communications, and of his private note forwarded at the same time, has been received. I have read the note of Mr. Ulloa with interest and careful attention.

While I cannot agree with many of his assumptions and arguments, I must express satisfaction with its general tone and tendency, and with its temper and conciliatory expressions.

In this view, it is in marked contrast with some of the papers which have in the past emanated from the officials of Spain.

* * * * * * *

I must, however, express my regret that Mr. Ulloa should have deemed it necessary, even if in deference to public feeling in Spain, to refer to the executions at Santiago as "the strict fulfillment of the laws in special circumstances," or as called for by "the imperious voice of duty," or to take from the moral effect of the indemnity proposed by characterizing the reparation as actuated by sentiments of pity consequent on a "duty fulfilled," and as caused by a desire to alleviate the misfortunes of those who suffer through punishment imposed on others by the law. I could have hoped that a review of all the facts attending the executions, and a consideration at this late day of those barbarous and cruel acts, happily without parallel, would have deterred the accomplished minister of state from the use of any expressions, and from allowing himself to be committed to any view, tending to justify those executions.

* * * * * * *

Without considering what supposed necessity may demand such an apparent justification, I cannot but believe that, had Spain joined the civilized world in a denunciation of these executions, and had she long since visited prompt and effective punishment on the guilty parties, the moral support she would have gained thereby would have largely exceeded any corresponding detriment.

* * * * * * *

I am, &c.,

HAMILTON FISH.

No. 274.

Mr. Fish to Mr. Cushing.

No. 129.] DEPARTMENT OF STATE,
Washington, February 19, 1875.

SIR: I have read your No. 238 with lively satisfaction. * * * In this connection, and particularly because it is of great importance that this controversy, once settled, should be finally determined, I allude to the matter of the punishment of General Burriel.

It will be remembered that, by the protocol of November 29, Spain bound herself to proceed, according to the second proposal made to Gen-

eral Sickels, to investigate the conduct of those of her authorities who had infringed Spanish laws or treaty obligations, and to arraign and punish them therefor. I am aware that Mr. Ulloa, in his note of December 3, informed you that the Spanish government would proceed to give proper orders for an inquiry respecting the conduct of these authorities in reference to the trial and sentence of the citizens of the United States, discussing at the same time the independence of the judicial power within its own sphere. As to what steps have been taken in that direction, I am not informed; but if it be conceded that the executions and the contemporary proceedings were wholly indefensible, so much so that the president of the council and the minister of state are unwilling to be considered as justifying or defending them, is not any formal inquiry, with all the attendant delay and with the bad effect of a want of complete adjustment, simply injurious and futile?

If the new government of Spain frankly avows that indemnity cannot be refused, and that it will not permit a longer withholding of reparation for this wrong, will it hesitate and delay punishment of the great offender, who not only put to death fifty-three of his fellow-creatures under circumstances exceptionally brutal and cruel, but who, long after the occurrence, paraded his share in the murders before the civilized world in a labored article, and falsely pretended that a decree, known to have been repealed, furnished him a justification?

I am unwilling to believe that Mr. Castro can be less frank and outspoken in reference to the punishing of General Burriel than to this question of indemnity; and I am quite as unwilling to think that the result of any inquiry can fail to coincide with the universal sentiment upon this question. In view of the fact that the present ministry has really denounced the acts and offered reparation, that the former ministers of Spain have at all times denounced similar acts committed in their own country, and that the civilized world has long since recorded its judgment, I must express the earnest hope that, while a further presentation of this matter should not embarrass or delay the settlement about to be made, upon a presentation at the proper time, the government of Spain will feel not only ready but desirous of putting an end to this entire controversy, and promptly punishing this chief offender; and I cannot imagine any more proper time for this most proper act than the earliest moment when the punishment can be inflicted.

I am, &c.,

HAMILTON FISH.

No. 275.

Mr. Cushing to Mr. Fish.

No. 388.] LEGATION OF THE UNITED STATES,
Madrid, May 17, 1875. (Received June 3.)

SIR: I have made only incidental reference to Brigadier Burriel in recent dispatches; but I have not lost sight of him, or, I might rather say, of his case; for he himself has quite disappeared from public view, having slunk away, it is said, into some obscure corner of Galicia. In fact, the whole affair has proved, as it ought, to be a calamitous one to him. Although some of his friends timidly suggest in his behalf that he acted under a mistaken sense of duty, still the reprobation excited by similar acts on the part of the Carlists, such as the affair of Olot and that of Cuenca, neutralizes all efforts to justify or extenuate his conduct.

You will readily conceive that considerations of public policy on the part of the government, both that of President Serrano and that of King Alphonso, will have tended to produce condemnation of all such acts; and the public indignation is kept alive by new incidents. Thus, not long since, the Carlist chief, Mendiri, shot by decimation a number of prisoners at Estella, on some frivolous cause of complaint, for the purpose of terrorizing the soldiers of the army of the north. Everybody is rejoicing to learn that the German government, on the application of Spain, ordered the extradition of D. Alphonso de Este, because of the acts perpetrated by him at Cuenca; and that, for the same cause, the inhabitants of Gratz, in Styria, where he had taken refuge, have mobbed him and his wife in the streets, driven him out of the cathedral, and attacked him in his dwelling-house.

In these circumstances, the Spanish government is neither disposed nor able to defend military executions; and tempted, as it has been, to retaliate in the same way on the Carlists, it abstains, and limits itself to issuing an order for the transportation of a certain number of Carlist prisoners in retorsion of the execution of soldiers of the government. Thus it is that, while nobody can efficiently defend Burriel, he remains without promotion; humiliated by seeing that his government is humiliated on account of his acts, and is forced, as it were, to throw a mantle of gold over the blood he shed, by paying heavy sums to the United States and to Great Britain for the relief of the families of the victims of Santiago de Cuba, and subject himself to the process of *residencia*. Of course, the government looks with no friendly eye on an officer who has drawn upon it so much reproach, exposed it to so much complaint and tribulation, and thrown upon it so much expenditure. Knowing that his case was before a council of war, it did not seem to be necessary to do more than allude to it occasionally with Mr. Castro, while the matter of the indemnity was on the carpet.

* * * I shall have been on official duty here just one year on the 30th instant; and I trust, ere that day arrives, to be able to report to you a solution in principle, if not in detail and fact, of all our reclamations against Spain.

I have, &c.,

C. CUSHING.

No. 276.

Mr. Fish to Mr. Cushing.

No. 185.] DEPARTMENT OF STATE,
Washington, June 4, 1875.

SIR: Your No. 388 has been received. I congratulate you upon what has been accomplished during the year of your stay in Madrid, and hope you may not be disappointed in your expectation of a speedy and satisfactory solution of all outstanding reclamations.

Concerning the case of General Burriel, to which you principally refer, it is quite natural that he should have retired from Madrid and should desire to avoid publicity.

After indemnity has been paid for acts which he claimed were justified by the authority of his government and after the enormity of military executions elsewhere has been brought home to the Spanish people, when practiced by the Carlists on their own soil, it must be expected

that he would cease to be a prominent figure, and retire, temporarily or permanently, into obscurity. Still, under these circumstances, obscurity is a refuge, not a punishment. During all this negotiation I have been of the opinion that the government of Spain, both on account of the positive agreement in the protocol and on general grounds, ought not to allow the principal offender to remain unpunished.

I am still of this opinion. Moreover, it seems to me to be greatly to the interest of both countries that no one should be afforded the opportunity of saying that Spain has left an important part of the protocol unfulfilled.

At the same time I am quite content to leave the question as to the manner and time of its further presentation to your good judgment.

I am, &c., HAMILTON FISH.

No. 277.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *August* 23, 1875.

* * * * * * *

Matter of Burriel is under discussion between minister of state and myself. Copy of note and report of several personal interviews by mail.

CUSHING.

No. 278.

Mr. Cushing to Mr. Fish.

No. 487.] LEGATION OF THE UNITED STATES,
Madrid, *August* 23, 1875. (Received September 9.)

SIR: I was greatly surprised to learn, by the newspapers of the 3d instant, that Brigadier Burriel had been promoted.

I immediately sought interview with the minister of state in the purpose of calling for explanations; but, in consequence of his almost continued absence at San Ildefonso, with his family, it was not until after several efforts that I secured an interview, by appointment, on Saturday, the 14th. I then expressed to him in strong terms my regret and surprise on hearing of the promotion of Burriel. He replied that the information of it had surprised him as much as myself; * * * that it had been done by the minister of war during his absence; that he would bring the subject before the council of ministers, which was then about to assemble, and would call at my house on the morning of the next day, (Sunday,) the 15th, in order to consider the subject at length.

* * * * * * *

At that interview I entered at length into the whole matter, recalling to his attention the terms of the protocol of November, 1873, and the subsequent assurances of the residentiation of Burriel, with appropriate comments; all of which it is unnecessary for me to repeat, as what I said was afterward put in writing, with more detail and precision, in the note of which a copy is annexed.

Mr. Castro replied, admitting the force of my suggestions, and declaring that the government of His Majesty was fully aware of, and would perform, all its engagements to the American Government in the premises; that the promotion of Burriel had for its only motive the deficiency of competent officers of his grade and the overpowering necessities of the war; and that the amplest explanations on this point would be given for the satisfaction of the United States. I told him that, in my opinion, the exceeding gravity of the subject required that it should not be left to mere verbal explanation, but should be discussed in writing, in which he concurred.

On Tuesday, the 17th instant, I called, by appointment, to inform him that I had prepared a note for presentation, but nothing of importance then occurred, he being in fact on the point of starting for San Ildefonso; in consideration of which it was agreed that we should meet again on Saturday, the 21st, afterward deferred, at his written request, to Sunday, the 22d.

Meanwhile, to prevent delays, suggestion had been made in the proper quarter to have a translation of my note made immediately. I called, by appointment, on Sunday, (yesterday, the 22d,) and found the minister of state with a translation of my note before him.

His first observation was that he thought the language of my note rather severe. I replied that the circumstances seemed to me to require of me to speak in plainness; that we had succeeded in disposing of the indemnity question by plain speaking on both sides, and might well pursue the same course on this occasion, in which he acquiesced.

* * * * * * *

In so far as regards Burriel, I have before me your instruction (No. 185) of June 4. The discretion you there commit to me will be sparingly exercised, and rather in respect of incidental points than of the groundwork of arrangement.

* * * * * * *

I have, &c.,

C. CUSHING.

[Inclosure.]

Mr. Cushing to Mr. Castro.

LEGATION OF THE UNITED STATES,
Madrid, August 18 1875.

SIR: It has been to me the occasion of great surprise to learn, through the medium of the public prints, that D. Juan Burriel has been promoted from the grade of brigadier to that of *mariscal de campo* in the military service of Spain, and the intelligence will be received with equal surprise by my Government.

As a general rule, it is true, neither my Government nor myself would concern itself in regard to promotion or other changes in the officiality, military or civil, of the Spanish government.

And my Government might hesitate to go beyond the point of informal or friendly suggestion, if so far, in the case of the bestowment of military honors by a foreign government on a subject who should merely have drawn to himself the attention of the world by acts of exceptional violence, cruelty, or inhumanity as an officer or as a man. Nor would the simple fact that D. Juan Burriel, in the wholesale execution at Santiago de Cuba of numerous passengers and crew of the ill-fated Virginius, raised a cry of horror throughout Europe and America not surpassed in loudness or intensity by that which the similar acts of atrocity of Seballo at Olot, or of Alphonso de Este at Cuenca, produced, have required me to make his promotion the object of the present communication. Nor is this communication induced by the mere circumstance that all the persons whose lives were thus taken by D. Juan Burriel were captured on the high seas under the flag of the United States, and that many of them were citizens thereof, executed, as my Government conceives, by judgments passed in violation of express treaty as well as of public law.

These considerations might indeed have sufficed of themselves to justify remonstrance on the part of my Government against the bestowment of promotion on D. Juan Burriel. But the question has passed beyond that point.

It cannot be forgotten that, in view of these occurrences, the Spanish government expressly engaged "to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, (in the said occurrences,) and will arraign them before competent courts, and inflict punishment on those who may have offended." It cannot be forgotten that the Spanish government has already paid considerable sums of money to the governments of Great Britain and the United States for the satisfaction of the families or the persons of the subjects or citizens of those governments aggrieved by the acts of D. Juan Burriel at Santiago de Cuba.

It cannot be forgotten that the Spanish government, in view of the representations made by that of the United States, expressly engaged "to give the opportune orders to the effect that by the competent tribunal should be instituted an information respecting the conduct at the authorities of Santiago de Cuba, which intervened in the substantiation of the process and sentence of the citizens of the United States who were executed in that place, exacting of those authorities the responsibility which they may have incurred by infraction of law or of treaty obligations;" that is to say, as repeatedly explained orally and in writing, by subjecting those authorities, especially D. Juan Burriel, to the "*juicio de residencia.*" In making these engagements, the Spanish government reminded that of the United States of the separation between judicial and executive functions in Spain, and the consequent necessity of *judicial* proceedings, according to law, against D. Juan Burriel. My Government willingly accepted his explanation as having reference to doctrines of constitutional law, such as prevail in the United States. It was satisfied with the general engagement of Spain to "investigate" and to "arraign" the parties before "competent courts." It was satisfied with the special engagement of Spain to subject the inculpated parties to the "*juicio de residencia*" as the only competent legal jurisdiction.

And it patiently awaited the result, confiding without reserve in the good faith of the Spanish government.

In the presence of these premises and considerations, my Government will of necessity presume that the stipulated investigation of the conduct of D. Juan Burriel, and his submission to the "*juicio de residencia,*" have resulted in acquitting him, not only of any violation of the municipal law of Spain, but also of any infringement of treaty stipulations—a decision that is in conflict with the explicit stipulations of treaty between the United States and Spain. I should be wanting in accustomed frankness toward your excellency were I to suppress the expression of opinion that, even in this view of the circumstances, the situation is grave, very grave; since, by the universally received rule of the modern law of nations, the final judgment even of a competent court may be the subject of diplomatic complaint and reclamation as for denial of justice. And the situation will wear an aspect of still greater gravity, if, in the absence of any such acquittal of D. Juan Burriel, the Spanish government, notwithstanding such general engagement of arraignment to the end of punishment, and such special engagement of arraignment by *residencia*, shall have selected that officer for promotion on the assumption of the commendableness of his acts at Santiago de Cuba.

I therefore solicitously await your excellency's explanations of this untoward and unexpected circumstance.

I purposely confine myself in this note to the discussion of the specific subject; but I cannot forbear to say that the present incident (whatever may come of it) renders it urgent that we should take up, and if possible adjust, the treaty question (with its adjuncts) which lies at the foundation of this protracted and still perilous controversy between our respective governments.

I have the honor to renew to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 279.

Mr. Cushing to Mr. Fish.

No. 492.] UNITED STATES LEGATION IN SPAIN,
San Ildefonso, August 25, 1875. (Received September 13.)

SIR: I had hoped to be able to transmit to you, with my note of the 18th, the reply of the minister of state: but the latter did not come in at the expected time.

I now inclose copy and translation of Mr. Castro's note, with my rejoinder, in the purpose of keeping you punctually advised of all the successive steps of the pending negotiation, especially in the new aspect it has assumed.

I anticipate interview with Mr. Castro this evening or to-morrow morning.

I am, &c.,

C. CUSHING.

[Inclosure 1 in No. 492.—Translation.]

Mr. Castro to Mr. Cushing.

MINISTRY OF STATE,
The Palace, August 23, 1875. (Received August 25.)

MOST EXCELLENT SIR: I have acquainted myself fully with the note your excellency has been pleased to address to me on the 18th of the present month in consequence of the promotion to the rank of mariscal de campo obtained by the brigadier of the Spanish army, Don Juan Burriel. Your excellency lays down, and recognizes as a general rule, that neither your excellency, nor your Government, may interfere in the changes and promotions which the government of which I have the honor to form part may deem it convenient to order and carry into effect with respect to the military or civil functionaries dependent upon it, and in obedience to this incontrovertible principle you give assurance that your Government might have hesitated to go beyond the limits of some purely friendly indication in the case of the concession of military honors on the part of a foreign government to subjects who might have attracted attention to themselves by reason of acts of exceptional cruelty or violence. But referring thereupon to the case of Don Juan Burriel, which gives motive to your communication, and with reference to the executions ordered by the same in Santiago de Cuba, and of the reclamations of which they were the object, you recall the compromises contracted by the Spanish government to submit to a formal investigation the conduct of the authorities who, in those melancholy occurrences, might have infringed the laws of the land or the obligations of treaties, imposing upon them the punishments to which they might have rendered themselves amenable, if in effect they were proved to be culpable.

The government of His Majesty, which voluntarily contracted the compromises which your excellency justly invokes, recalls them likewise, in its turn, and finds itself firmly resolved to fulfill them, without the higher grade to which General Burriel has been elevated exempting him from the responsibility he may have contracted, or either augmenting or diminishing his means of defense.

In effect, if the necessities of the war and of army organization on the one hand, and, on the other, the consideration that it was not allowable to the government to anticipate in a certain sense the result of the pending judgment, counseled it to promote to the next higher grade a general officer, neither with reference to that has it been possible to take into account the memories evoked by your excellency, nor can the act to which you refer have the least influence on the consequences of the investigation, which continues pending, or on the *juicio de residencia* to which it may give occasion.

Both matters are following, and will follow, their due course, without other delays than those inevitable in this class of proceedings. Justice will pronounce its judgment, and be this what it may, the government of His Majesty will enforce its execution without other considerations than those imposed upon it by its own dignity and the rigorous fulfillment of its pact.

I believe, Mr. Minister, that these frank explanations will be sufficient to demonstrate to your excellency the true and only character of the step to which you have deemed it convenient to call my attention; and as for the urgency of bringing to the most speedy termination possible the affair, of which the fact which now occupies us is only a mere, although important, incident, the government of His Majesty shares fully in this opinion, and will omit none of the means within its reach, to the end that your desires may remain speedily satisfied. With this object it has already incited the zeal of the high consultative body, to whose elevated and impartial criterion are already submitted the acts which have originally given origin to the present controversy.

I improve this opportunity to repeat to your excellency the assurances of my most distinguished consideration.

A. CASTRO.

THE MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 2 in No. 492.]

Mr. Cushing to Mr. Castro.

LEGATION OF THE UNITED STATES OF AMERICA,
San Ildefonso, August 25, 1875.

SIR: I have the honor to acknowledge the reception of your excellency's note of the 23d instant, in response to mine of the 18th, on the subject of D. Juan Burriel.

The tenor and general spirit of its contents afford me a great satisfaction, and they will, I am sure, be regarded in the same light by my Government.

It is particularly satisfactory to learn that the government of His Majesty, by its own voluntary act, has participated in the compromises referred to in my note, and that it is resolved to comply therewith, without the fact of the promotion of General Burriel having been designed or being allowed to exercise any influence to the prejudice of the pending preliminary investigation in this behalf, or, to that of the *juicio de residencia* to which that investigation may give occasion, or of the judgment which may ensue. I had confided in the manifestations of good faith heretofore exhibited by His Majesty's government in its negotiations with the United States so far as to be prepared to expect from your excellency the assurances now with such honorable frankness expressly given to this effect.

Indeed, investigations of this class have been so frequent in the history of Spain, as applied, not only to subordinate governors, but also to the highest functionaries of her possessions of ultramar, and they constitute a peculiar feature of public administration so creditable to her national policy, that it seems to me impossible to suppose that His Majesty's government could accord to D. Juan Burriel exemption from inquiries to which a Cortes, a Mendoza, or a Revilla-gigedo had been subjected, especially when ample cause therefor existed in complaints to that end on the part of a friendly government. I can well conceive, also, that in the unhappy civil war which to my own deep regret now afflicts Spain, His Majesty's government should feel that every officer of the army owes a paramount debt of patriotism to his country, which he might be called upon to discharge according to his capacity, notwithstanding the pendency of charges respecting his administrative conduct in another field of action. Nevertheless, your excellency, accustomed as you are to responsibilities of public trusts, and conscientiously punctilious as you are in the performance of them, cannot fail to perceive how incumbent on me it was to call attention to the subject, in view not merely of the promotion of D. Juan Burriel, but of circumstances attending it which are susceptible of the construction of implying favorable prejudgment of his acts at Santiago de Cuba.

Finally, I assure your excellency of the hearty co-operation which it will be my great pleasure to render in a concurrent endeavor on our part to adjust, once for all, the outstanding points of controversy between our respective governments, in the confident belief that it is in our power thus to be of commendable service to both of them, and in the earnest personal aspiration of being able to resign my present official functions in due time without leaving a shade to remain on the friendly intelligence of Spain and the United States.

I avail myself of this opportunity to repeat to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 280.

Mr. Cushing to Mr. Fish.

No. 497.] LEGATION OF THE UNITED STATES,
Madrid, August 31, 1875. (Received September 23.)

SIR: In my dispatch to you, No. 487, of the 23d, I reported the statement of the minister of state that the promotion of Brigadier Burriel had been made in his absence and without his knowledge. I now remember that he also said it was done in the absence of the minister of ultramar. * * * * *

It has afforded me satisfaction * * * to receive information that the promotion was made * * * in the absence and without the knowledge * * * of the proprietary minister, General Jovellar.

I have, &c.,

C. CUSHING.

No. 281.

Mr. Fish to Mr. Cushing.

No. 238.] DEPARTMENT OF STATE,
Washington, September 22, 1875.

SIR:

* * * * * * *

Your proceedings, as set forth in your No. 492, of the 25th ultimo, in regard to the promotion of General Burriel, are approved by this Department.

I am, &c.,

HAMILTON FISH.

No. 282.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *September* 28, 1875.

The promotion of Burriel, and omission to observe the engagement to investigate, involve very grave consequences, and cannot be considered other than a serious disregard of the obligations of Spain to this Government.

FISH, *Secretary.*

No. 283.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *September* 29, 1875.

Telegraph of twenty-eighth received; shall I take new steps on it at once, or wait for specific instructions on my numbers four eighty-seven, four ninety-two, and five hundred one?

CUSHING.

No. 284.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *October* 1, 1875.

Remonstrate strenuously against preferment; urge compliance with protocol and promises.

FISH, *Secretary.*

No. 285.

Mr. Cushing to Mr. Fish.

No. 579.] LEGATION OF THE UNITED STATES,
Madrid, October 6, 1875. (Received October 29.)

SIR: I received a note from the minister of state on the 4th, appointing the next day, the 5th, for the interview requested by my note of the 3d, communicated to you with my No. 570.

I proceeded at once to inform the minister of the painful effect produced in the mind of my Government by the promotion of D. Juan Burriel, accompanied as it was by the omission of the Spanish government for a space of nearly two years to execute the explicit engagement of the protocol of November 29, 1873, and the absence still of any apparent progress in such investigation, even after the assurances on that subject given successively by Mr. Ulloa and Mr. Castro; in consequence of which I had received instructions to remonstrate and insist further in this behalf. And as a more efficient means of impressing on him the gravity of the situation than any words of mine could, I read to him your telegrams of the 28th ultimo and the 1st instant. He seemed not to be familiar with the early stages of the question; but proceeded to say, in repetition and enlargement of the suggestion made by Mr. Castro in his note of the 23d of August, namely, that the promotion of D. Juan Burriel had been dictated exclusively by the consideration of military exigencies of the moment; that, oppressed as the Spanish government was by civil war in the peninsula and in Cuba, it was constrained to put its hand on every accessible military officer of competency; that it could not afford to leave such officers in idleness; and therefore—and therefore alone—it had promoted and employed D. Juan Burriel.

I replied that it seemed to me that Spain had general officers enough, and good ones, without being constrained to promote and employ an officer under such serious charges; that it was not customary in any service, within my experience or observation, to promote officers in such condition; that it would, it seemed to me, have been quite easy for the Spanish government, if satisfied of the immediate need of an additional general in the north, to promote some other of the many brigadiers in the army, or to bring D. Juan Burriel promptly to trial, acquit him if innocent, or punish him if guilty, and, after having thus discharged its obligation, then to decide whether the exigencies of the public service required his further employment in the army; and that, after all, it was the conjoint fact of promoting him while failing to try him which constituted the *gravamen* of the circumstances as respects the United States. He rejoined, reiterating the military argument, but professing his ignorance of the state of the criminal investigation, or the reasons of its having been so long delayed, while expressing earnest desire that everything should be done in the premises which could be justly called for by the United States. I then spoke to him of the odiousness of the acts of Burriel at Santiago de Cuba, of his want of upright sentiment in not relieving his government of embarrassment by demanding trial, as honorable men were accustomed to do in other countries; and of the repeated occasions on which the United States had subjected her officers to trial at the instance of foreign governments, including Spain. He seemed to be unacquainted with these cases.

I informed him that he would receive a note from me on the subject, to include reference to some of these cases, and general recapitulation of the diplomatic history of the case.

* * * * * * *

I remain, &c.,

C. CUSHING.

No. 286.

Mr. Cushing to Mr. Fish.

No. 580.] LEGATION OF THE UNITED STATES,
Madrid, October 6, 1875. (Received October 29.)

SIR: I annex hereto copy of a note on the matter of Burriel, presented to the minister of state, after seeing him by appointment, as described in my No. 579 of this date.

* * * * * * *

I have, &c.,

C. CUSHING.

[Inclosure.]

Mr. Cushing to the minister of state.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, October 4, 1875.

SIR: I am under the disagreeable necessity of once more asking the attention of His Majesty's government to the matter of D. Juan Burriel and the other authorities of Cuba compromised in the affair of the Virginius.

To begin, let me remind your excellency that, according to the protocol signed at Washington on the 29th of November, 1873, by the Secretary of State of the United States and the Spanish minister D. José Polo de Bernabé, it was expressly and unequivocally stipulated that Spain will "proceed * * * * to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts and inflict punishment on those who may have offended."

On assuming charge of this legation, in May, 1874, I found that the Spanish government had not yet taken any steps in execution of the above-cited stipulation.

Accordingly, on the 19th of June, 1874, I addressed a note to his excellency D. Augusto Ulloa, the then minister of state, calling his attention especially to a publication on the subject by D. Juan Burriel, to which Mr. Ulloa replied.

Subsequently, on the 24th of September, 1874, I addressed to Mr. Ulloa a second note, discussing the main question, and representing the enormity of the crimes against the obligations of treaty and the laws of Spain, and of humanity itself, which had been perpetrated at Santiago de Cuba, and respectfully appealed to the Spanish governmen to execute its relative convention with the United States.

In this note I suggested, further, that on several signal occasions, for the satisfaction of Spain, the United States had tried and condemned officers of more importance than D. Juan Burriel, and guilty of less offenses; nay, that those officers, unlike D. Juan Burriel, had manfully come forwaid and spontaneously demanded trial, in order to relieve their Government of all embarrassment in the premises.

To this note no specific answer was ever made by Mr. Ulloa, thus impliedly admitting the right and the force of the representations of the United States.

I then addressed to him a third note on the subject, that of November 30, 1874.

Meanwhile, however, another question was pending between the United States and Spain, that of the indemnities claimed by the former on account of the acts of D. Juan Burriel; and at length, on the 3d of December, 1874, while discussing the questions of law involved in the claims of indemnities, Mr. Ulloa, in conclusion, and without discussing at all the precise question of the merits or demerits of D. Juan Burriel, yet engaged that the stipulated investigation of his acts, and the contingent arraignment of him therefor, should proceed, and that the proper orders to that effect would be addressed to the competent tribunal.

On the faith of this engagement, I then took up in the most cordial spirit, and concluded, the negotiation of indemnities with his excellency D. Alejandro Castro, assuming throughout the subsistence and dependency of the stipulated investigation and arraignment of D. Juan Burriel.

No reason of doubt on this point occurred to me until informed by the public newspapers that D. Juan Burriel had been promoted, and even promoted out of course, and with expressions which might well have been construed as express condonement of the specific offenses committed by him at Santiago de Cuba.

I then addressed to Mr. Castro my note of the 18th of August ultimo, soliciting ex-

planations on this new and unexpected incident, as being a thing apparently in conflict with previous stipulations and engagements for the trial of Burriel.

Mr. Castro promptly replied, with assurances not only that the promotion of D. Juan Burriel involved no purpose of disregard of engagements to the United States, nor any thought of desisting from his trial, but, on the contrary, that the investigation was proceeding, and would proceed, without being affected in any way by that promotion.

It seemed to me that in giving this assurance the government of His Majesty performed an act of high respect for its own dignity, worthy of the traditional *hidalguia* of Spain.

For inasmuch as no specific reply had been made (or has to this day been made) to so much of my notes of June 27 and September 24, 1874, as emphatically impugned the acts of D. Juan Burriel at Santiago de Cuba, on the ground of being illegal, equally by municipal law and by treaty, and inasmuch as the notes expressly put those acts on the same footing as similar acts of atrocity perpetrated by the Carlists at Olot, at Cuenca, and at Estella, I assumed (and was I not justified in assuming?) that such also was the tacit appreciation of them on the part of the Spanish government.

It seemed to me impossible, therefore, to suppose that such acts would not in due time receive condign punishment.

Accordingly, in the interest of harmony and peace, I accepted these assurances of Mr. Castro, while not failing to convey to him impressions of the extreme gravity of the situation, and of its violent strain on the amicable relations of the two governments.

But on a retrospect of this whole transaction, my Government is of opinion that it has good cause of complaint and remonstrance in the premises, not solely because of the promotion of D. Juan Burriel, but of that promotion in connection with the absence of any ostensible, apparent, or definite action in execution of the protocol of November 29, 1873; in respect of which my instructions are to insist, respectfully, but earnestly, as for a step which my Government might rightfully expect from the high and honorable character of His Majesty's counselors as a spontaneous act even had the stipulation to that effect made by a previous government not been expressly re-affirmed by that of His Majesty.

Finally, I solicit your excellency's attention to the subject, in the sincere hope of receiving such explanations as may serve to allay my own solicitude and to tranquillize the dangerous uneasiness existing in the United States.

I avail myself of this occasion to renew to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 287.

Mr. Cushing to Mr. Fish.

No. 614.] LEGATION OF THE UNITED STATES,
Madrid, October 20, 1875. (Received November 8.)

SIR: I annex hereto copy and translation of a note just received from the minister of state in reference to the investigation of Burriel, and the other implicated authorities of Santiago de Cuba, and copy of my reply.

The Conde de Casa-Valencia, you perceive, states that the preliminary formalities in the matter have been fulfilled, that is—as I understood the matter in the light of what Mr. Castro said to me on the subject—the administrative examination of the subject by the council of state to the conclusion of recommending legal process. The ministers of war and marine are now to act respectively as to the officers of the army and those of the navy.

I will at an early day transmit to you legal details regarding the whole procedure.

You will observe that the minister of state, in reference to the previous notes of mine recapitulated in my note to him of the 4th instant,

says: "and *to which replied successively* Messrs. Ulloa and Castro." This phrase appeared to me to go a little beyond the mark, and to imply (contrary to the fact) that my notes to Mr. Ulloa of June 27, 1874, and of September 24, 1874, had *all* received contestation.

And, as the parallel between the massacres of Santiago de Cuba and those of Olot, Cuenca, and Estella, drawn in my note of the 24th of September, 1874, had not been disputed at the time it was presented, it seemed to me out of season on the part of the Conde de Casa-Valencia to raise the issue now, incidentally, in response to the simple retrospective allusion to the point contained in my note of the 4th inst.

Hence the observations on the subject contained in my last note.

* * * * * * *

Complaining bitterly, as Madrid does, at every act of military execution on the part of the Carlists, which acts have never done the least good to the cause of D. Carlos either as retaliation or as terror, it might be really beneficial to right-minded Spaniards to be compelled to see that neither have similar acts of passionate violence of theirs in Cuba done the least good to *their* cause either as retaliation or terror, while involving Spain in a series of perilous controversies with Great Britain, France, and the United States.

* * * * * * *

I have, &c.,

C. CUSHING.

[Inclosure 1 in No. 614.—Translation.]

The Conde de Casa-Valencia to Mr. Cushing.

MINISTER OF STATE,
The Palace, October 17, 1875. (Received October 19.)

YOUR EXCELLENCY:

SIR: I have received the note of your excellency, of date 4th instant, wherein you are pleased to state to me that you have instructions from the Government of the United States to call the attention of that of His Majesty the King to the delay which has occurred, on the part of Spain, in the execution of one of the clauses agreed upon in the protocol signed in Washington by the minister plenipotentiary of Spain and the Secretary of State of the American Republic, on the 29th of November, 1873, in consequence of the question of the Virginius.

With this motive, your excellency is pleased to recall to mind the notes which, on different occasions, from the time you took charge of your legation until now, you had addressed to my predecessors in this ministry, and to which replied successively Messrs. Ulloa and Castro, confirming the engagement contracted and the constant purpose of the Spanish government to carry into effect so soon as the state of the general *expediente* in the matter of the Virginius should permit it to proceed without embarrassment to the special investigation referred to by what is stipulated in the aforesaid protocol.

This case having arrived, and the legal formalities prescribed by existing enactments having been now fulfilled, nothing opposes the execution by the Spanish government of its agreement with that of the United States, and with this object I have addressed myself to my colleagues, the ministers of war and marine, to the end that, resolving which ought to be the competent tribunal within the proper jurisdiction of each one of those branches of the administration, there be submitted thereto the examination and investigation of the conduct of the authorities of Cuba who intervened in the process of the Virginius, conformably with the stipulations in the protocol of Washington.

General Burriel being one of the military authorities of Santiago de Cuba, at the time when the capture of the Virginius took place, he will, in such conception, be comprehended in the proceedings which are ordered to be instituted; and it behooves me, in this relation, to repeat to your excellency the assurances which were given to you by my predecessor, Mr. Castro, that the actual rank of General Burriel in the army will have no influence on the result of the investigation which is now about to take place, as well as that his official promotion in no wise prejudges his conduct in the events of Cuba.

This is not the occasion to examine or to judge those occurrences, but I can do no less than state to your excellency that there is not exactitude in comparing them with those which took place at Olot, Cuenca, and Estella, which your excellency recalls in your note.

In acquainting your excellency with the resolution adopted by the government of His Majesty, to the end of executing that which was stipulated in the protocol of the 29th of November, I flatter myself that the Government of Washington will behold therein the sincerity wherewith Spain is accustomed to fulfill her engagements, and that it will be persuaded, moreover, that the delays which this matter has suffered hitherto have exclusively arisen from the state of the general *expediente* of the Virginius, and from the duty which was incumbent upon the government to await the scrupulous observance of all the formalities which are exacted in the progressive proceedings of this class of affairs.

I avail myself of this opportunity to reiterate to your excellency the assurances of my most distinguished consideration.

EL CONDE DE CASA-VALENCIA.

THE MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 2 in No. 614.]

Mr. Cushing to the Conde de Casa-Valencia.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, October 20, 1875

SIR: I have the honor to acknowledge reception of your excellency's note of the 17th instant, in which you inform me of the actual initiation of proceedings against the authorities of Santiago de Cuba, in pursuance of the protocol of the 29th of November, 1873. It affords me great satisfaction to know that this step, so long deferred by previous governments, has at length been taken by that of His Majesty. It also affords me satisfaction to receive renewed assurance that the recent promotion of D. Juan Burriel will constitute no obstacle to the full examination of his participation in the inculpated acts, as, indeed, I already fully believed, in reliance on the declaration of his excellency Mr. Castro, and the recognized honorability and good faith of His Majesty's government.

I doubt not the step thus taken, and the related assurances given by His Majesty's government, will afford the same satisfaction to my Government, to which your excellency's note has been promptly transmitted with appropriate commentaries.

Incidental expressions in that note would seem to imply that *all* my previous notes to the ministry of state on this subject had been replied to, which compels me to ask myself whether I had been, perchance, laboring under a misapprehension, in supposing, as indicated in my note of the 4th instant, that no specific answer was ever made by any minister of state to my note of the 24th of September, 1874, arguing the culpability of D. Juan Burriel, and presenting reasons for his arraignment and punishment by his government, or to so much of a previous note of the 27th of June, 1874, as touched the same point. If such misapprehension existed, it should and would be cheerfully confessed, and the inferences founded thereon withdrawn.

I have, therefore, caused the files of the legation to be carefully re-examined in this respect, and with the following results:

His excellency the minister of state for the time being replied, under date of July 8, 1874, to so much of my note of the 27th of the previous June as called in question the validity of D. Juan Burriel's plea in justification of his action at Santiago de Cuba, assumed by him to be found in a certain order issued by General Dulce, which his excellency Mr. Ulloa admitted had been repealed by General Caballero de Rodas, and, therefore, did not constitute justification in the premises; but he did not take issue with me on the main question of the imputed demerits of D. Juan Burriel.

I am unable to discover that the particular considerations adduced in my note of the 24th of September, 1874, to show why D. Juan Burriel should be arraigned, were ever specifically met, or even that the reception of that note was ever acknowledged.

The long and able argumentative note of his excellency Mr. Ulloa of the 3d of December, 1874, was professedly and in fact in response to a note of mine of July 21, 1874, consecrated to the distinct question of the indemnities claimed for the officers and crew of the Virginius shot at Santiago de Cuba.

In the same note, it is true, his excellency disposes of the particular question of D. Juan Burriel; but in express response to my note of November 30, 1874, alone.

Can it be that my note of the 24th of September, 1874, miscarried, and by some untoward accident failed to reach the minister of state? I should be sorry to find it so, for (*sotto voce*, and without presumption, be it said) I had flattered myself that the

points it presented were well put, first, in contending that the wholesale executions in cold blood at Santiago de Cuba were *worse* than those of Olat, Cuenca, and Estella, since the former were not only, like the latter, of unarmed men and of prisoners, but, in addition to that, of *non-combatants;* and, secondly, because of the examples exhibited by me of officers of equal (and even higher) category and merit than D. Juan Burriel having been tried and (although for less offenses) *cashiered* by the Government of the United States at the instance of that of Spain.

I abstain, however, at the present apparently auspicious stage of this protracted controversy from re-opening those questions; and I beg pardon for having even touched upon them thus briefly in a note of which the sole aim was originally, and the main object still is, to express my own satisfaction and anticipate that of my Government in view of the information contained in your excellency's note; the digression from which to a minor matter has been partly, it is true, in discharge of my own conscience, but still more for the due satisfaction of your excellency.

I avail myself of this occasion to reiterate to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 288.

Mr. Fish to Mr. Cushing.

No. 265.] DEPARTMENT OF STATE,
Washington, November 5, 1875.

SIR: The receipt of your Nos. 487, 492, and 497, reporting the promotion of Brigadier-General Burriel, without any effective steps having been taken to carry out the protocol entered into in November, 1873, gives rise to renewed serious consideration touching our relations to Spain.

Since the receipt of the above-mentioned dispatches in reference to General Burriel's promotion, your Nos. 555, 570, 580, and 589 have also been received. In your No. 555 you convey the agreeable intelligence that instructions have been issued by Lord Derby to Her Majesty's representative to co-operate with you on this question, and in your No. 589 you inform the Department of an interview between Mr. Layard and the minister of state. In your No. 570 you give a history, and present the actual state of this negotiation, and in your No. 580 you forward a copy of your late note to the minister of state. Without information as to the effect of your remonstrances, it is advisable to recur to the subject, and to consider the course of the Spanish authorities in reference thereto.

Upon the 26th November, 1873, Mr. Carvajal, then minister of state, in a communication to General Sickles, made a proposition of settlement of the question arising out of the Virginius, in order, as he stated, to give public testimony that his government had no desire to indefinitely postpone the settlement of this matter, and in pursuance of the firm resolution of giving satisfaction for these wrongs, in accordance with the duties imposed by universal law and particular treaties. This was a spontaneous offer on the part of the government of Spain.

In so doing, Mr. Carvajal made four propositions, the second of which provided, in substance, that if it be proved that in the sentences and proceedings at Santiago there had been an essential failure to comply with the provisions of legislation or of treaties, the Spanish government would arraign those authorities before the competent tribunals. The protocol of November 29th thereupon stated that if, before December 25th, Spain should prove, to the satisfaction of this Government, that

the Virginius was not entitled to carry the flag of the United States, the salute agreed upon would be dispensed with; it being understood that Spain would proceed, according to this second proposition made to General Sickles, "to investigate the conduct of those of her authorities who have infringed Spanish law or treaty obligations, and will arraign them before competent courts, and inflict punishment on those who may have offended."

I need not remind you that this Government faithfully and promptly performed its obligation. The Attorney General, after a consideration of the evidence transmitted to him, gave his opinion, bearing date December 17th, that the Virginius was not entitled to carry the flag of the United States; and this Department, on the 22d of December, informed Admiral Polo of this conclusion. In like manner it was the duty of the authorities of Spain, without the necessity of any pressure from this Government, promptly and fairly, without delay or equivocation, to investigate the conduct of General Burriel and the other authorities, and to fearlessly bring to justice those who had infringed law or the provisions of treaties.

I propose briefly to examine the question as to the manner in which that government has performed this obligation.

Between the date of the protocol and of your general instructions, dated February 10th, no steps in the matter were taken by the authorities of Spain, as far as I am informed.

With this engagement, however, entirely unperformed, and before you had reached your post, General Burriel, over his own signature, published a communication in the "Epoca" of the 21st April, not only justifying his acts, but claiming they were directly authorized by a decree of General Dulce. He asserted them to be laudable and proper, and, pursuant to this decree, expressly authorized by Spanish law.

Under date of June 9, 1874, I referred to this publication as meriting a disavowal, particularly as the decree in question was well known to have been repealed, and stated that it was supposed that the neglect to take steps for the punishment of Burriel had been caused by the extraordinary condition of things in Spain; and that, if so, it was desirable to know that fact. Inquiry was then made whether proceedings were to be taken; and, if so, as to the time and nature thereof.

In your No. 60, of July 10, you forward a copy of the reply of the minister of state to your note in reference to this publication, and making inquiries as to the prosecution, in which Mr. Ulloa, while distinctly stating that the decree to which General Burriel refers had been repealed, asserts the right of that person, although an officer in the army of Spain, to freely publish his ideas, as he had ceased to hold official position in Cuba; and expressed his unwillingness to discuss the question of his prosecution as being bound up with the main question of the Virginius.

The minister of state seemed to have forgotten, as other ministers before and since have forgotten, the terms of the protocol and the obligation of his government. We find, therefore, a prominent officer in the army of Spain not only willing in his cooler moments to justify executions, the haste and objectionable features of which have no parallel in modern times, but claiming that the acts were done pursuant to certain decrees which it was well known had been repealed; and we further find, what appears more surprising, that the minister of state is not only unmoved at such a publication on the part of an officer charged with these high offenses, and whom his government had failed to prosecute, but is ready to advocate his right to freely express his "opinions."

In your comments upon this note of Mr. Ulloa, you concur in the suggestion that it might be advantageous to discuss the question of Burriel in connection with the general settlement; and, in reply, under date of August 15th, I expressed the opinion that delay, although some such advantage as you referred to might be obtained thereby, was unsatisfactory, and that it was the opinion of the President that the time had come for something definite to be accomplished.

In your No. 106, of September 26th, you transmit a copy of a note addressed to the minister of state, which forcibly and distinctly presents the question of the guilt of General Burriel and the necessity of his punishment; and subsequently, with your No. 171, of December 1, you forwarded a copy of a further note, calling particular attention to the protocol, entirely unperformed, as distinguished from the general question. Nevertheless, in the reply of the minister of state, under date of December 3, Mr. Ulloa contents himself with expressing his intention to adhere faithfully to the protocol, and states that he will give orders that inquiry shall be instituted by the competent tribunals, proceeding, however, to argue as to what particular tribunal ought to be called upon to enforce these provisions, and showing a particular care as to the machinery by which the inquiry was to be conducted, not always remarkable in similar investigations conducted by that government.

It therefore appears that, for over a year, no steps whatever had been taken, and the Spainish government was still, at this late day, discussing certain abstract questions, when the investigation should have been made immediately by the authorities of Spain without the necessity of any communication from, or reference to, this Government.

I referred to this question in my telegram to you of December 7th, and called attention to the solicitude shown that General Burriel, although an officer of the army, and one who had been charged with grave offenses, committed while holding a high command, should have the benefit of such unusual solicitude as to the manner in which the inquiry should be conducted.

In your No. 178, however, of December 8th, nothing yet being done, you report that Mr. Ulloa had informed you that he would address the minister of war to institute proceedings against the implicated parties; and in your telegram of December 9th you stated that the acceptance of the offered indemnity, on the terms proposed, assured executive arraignment of the authorities, and their trial by criminal process, equivalent to our own court-martial.

After the settlement of the indemnity question, however, no advance seems to have been made in reference to the trial of General Burriel. For this reason, in my No. 129 of February 19th, I referred again to the question, insisted that the protocol should be performed, and that Mr. Castro, who had succeeded Mr. Ulloa as minister of state, having freely expressed his opinions as to the general question of indemnity, could not be less frank in reference to this offender; and while the presentation of the question was left to your discretion, I expressed my opinion that the proper time was the earliest moment when punishment could be inflicted.

In your No. 388, of May 17th, you speak of the retirement of General Burriel from Madrid, of his humiliation, and the general reprobation of his acts; and add that knowing that his case was before a council of war, it seemed requisite to do no more than to make occasional references to it. It now appears doubtful whether his case was ever before any council of war, and it may be assumed as certain that nothing was done by the council, if any such ever assembled.

Since that date occasional references have been made by you to General Burriel's case, but only as one of the elements of general settlement.

You may judge, therefore, after all that has been said, and fter the engagement so distinctly made, the performance of which has been so often avoided, always, however, with renewed promises of fulfillment, of the surprise of this Government on learning that General Burriel had been suddenly promoted and taken into active service.

On reading the verbal and written explanations furnished you by Mr. Castro, and reported in your Nos. 487 and 492, I can find nothing either explaining such steps, affording any excuse for the promotion of this officer without a trial, or furnishing any evidence that the Spanish government intended to fulfill its engagement. It is not material who issued the order for General Burriel's preferment, by whose procurement or by what means it was accomplished, or whether the minister of state was absent or knew the facts. It is the act of the government of Spain. His history, his offense, and the failure to bring him to justice were well known to the authorities, and his promotion is the act of his government in full view of all these facts.

The want of military officers has been urged as an excuse; but even if under all these facts the necessities of Spain made it necessary to employ General Burriel, it was not necessary to promote him. If it was feared that proper punishment would remove him from the service of Spain, it was not requisite that marks of favor and approval should be shown him. It may be well to inquire, also, whether *mariscal del campo*, the grade to which it is announced he has been promoted, is, in fact, the next grade to that which he formerly held.

Pending some further information as to the effect of your remonstrances, I abstain from further discussion of this general question, simply observing that the statement of Mr. Castro, in his note to you of the 25th August, that, notwithstanding the promotion of General Burriel, it was the intention of the Spanish government to perform their promises in the protocol, is entirely unsatisfactory when considered with the entire neglect which has occurred in meeting these obligations in past times, and without some definite information as to precisely what is to be done, and the details thereof.

It is requisite to the maintenance of our relations with Spain that we should fully, frankly, and fairly understand precisely what has been done on this question and what is to be done. If nothing has been done and nothing is to be done, we should know that fact. If anything is to be done to carry out this long-delayed promise, it should be done without further discussion or delay, and in a manner calculated to produce an effect. It is believed that all the facts are at hand, that no prolonged investigation can be required, and it is but proper to say that simply putting in train some sort of investigation to wind its slow length along and produce no speedy or conclusive result, will not be satisfactory to this Government. In fine, the time has long passed when it should be definitely known whether the Spanish government does or does not take upon itself to say whether the acts of General Burriel were or were not in accordance with Spanish law and treaty obligations; and it is expected that an early and satisfactory reply to your note of the 4th day of October to the minister of foreign affairs, communicated with your dispatch to the Department, No. 580, of the date of October 6th, will enable you to ascertain the intentions of the Spanish government on these points, and to inform the Department at the earliest possible moment.

In prosecuting such inquiries, in bringing the Spanish government to recognize the position and importance of this question, and in obtaining a decisive ending thereof, I am happy that you have the assistance and co-operation of the representative of Great Britain. I have read with satisfaction the incidents of Mr. Layard's interview with the minister of state, referred to in your No. 589, and am of opinion that his frank and plain statement of the case will contribute to place this matter in its proper light. I am satisfied that the matter must be placed strongly and plainly before the Spanish government, which must be made to recognize that serious difficulty may follow further dilatory proceedings.

As to the manner of prosecuting this question and making the necessary inquiries, and having particular reference to the statements and suggestions in your confidential dispatch No. 570, I have to say that you have rightly interpreted the meaning of the telegrams of the 28th September and 1st October. It is the strong desire of this Government, as it has been, fairly and honorably to perform all its duties to Spain. It has the right to insist in return that the government of Spain shall, in the same spirit of fairness, perform its engagements and obligations to this country. It cannot be doubted or questioned that on this subject such obligations have been postponed, evaded, and left unperformed.

It has been and is our desire to satisfactorily adjust this and every other question, and in this desire we have been patient almost to the limit of endurance.

In this same spirit and in this view you have again been instructed to represent to Spain the injury that her course in reference to General Burriel inflicts on both countries, and its effect upon our relations, and it is earnestly hoped that the representation may be received and responded to in the same spirit.

Whether this question should precede or follow the treaty question or the confiscation cases, I cannot at this distance intelligently direct; but I can, however, and do, express the strong opinion that in reference to all these questions, equally, the relations of this country with Spain are endangered by delay, and that as to all, equally, the Spanish government should be informed that the maintenance of good relations with this Government depends on an early, a satisfactory, and a conclusive adjustment.

I am, &c.,

HAMILTON FISH.

No. 289.

Mr. Cushing to Mr. Fish.

[Telegram.]

FISH, *Secretary, Washington:*

MADRID, *November* 16, 1875.

Spanish note has come in.

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No. 290.

Mr. Fish to Mr. Cushing.

No. 284.] DEPARTMENT OF STATE,
Washington, January 6, 1876.

SIR: Referring to instruction No. 265, under date of the 5th November last, treating of the trial of General Burriel, and to your No. 614, of the 20th of October, in which you inclose a copy, in translation, of a note from the minister of state, informing you of certain proceedings looking toward his arraignment,

* * * * * * *

I have to state that * * * it would seem that the information requested in my No. 265, as to the particulars of the coming trial, should be obtained, in order that the record may be complete.

The general statement contained in the note of the then minister of state, addressed to you under date of the 17th October, 1875, stating that General Burriel would be comprehended in certain proceedings which are ordered to be instituted, does not of itself appear to go much further toward a trial than the other assurances which have heretofore been given.

I presume, however, that proceedings have been taken toward a trial, and that you may be able to respond to the inquiries contained in my No. 265.

I am, &c.,

HAMILTON FISH.

No. 291.

Mr. Cushing to Mr. Fish.

No. 906.] LEGATION OF THE UNITED STATES,
Madrid, April 12, 1876. (Received May 3.)

SIR: I have the satisfaction of now transmitting to you herewith copy and translation of a note just received from the minister of state, by which you will learn that the King's government, doubtless moved thereto by the recent pressing communications of mine on the subject, official and unofficial, * * * * * * * has at length taken decisive steps to relieve itself of the embarrassments produced by the delays, whether of willfulness or of negligence only, of the council of war in the matter of the arraignment of Burriel and his associates for the outrages committed at Santiago de Cuba.

Legal forms in most countries are the great impediment to the administration of justice. In Spain it is just announced only now that, after the expiration of more than five years, the prosecution of the assassins of Prim is about to pass from its preliminary stage of preparation (*sumario*) into that of action, (*plenario;*) and we in the United States have had a similar case of juridical procrastination in the matter of Tweed.

I do not intend, if it be possible to prevent it, to suffer further delays in the present matter; and therefore propose to continue to follow up the question urgently, and in sign thereof have addressed a note to the minister of state, a copy of which is annexed.

I have, &c.,

C. CUSHING.

[Inclosure 1 in No. 906.]

[Translation.]

Mr. Calderon y Collantes to Mr. Cushing.

MINISTRY OF STATE,
The Palace, April 11, 1876. (Received April 11, 8 p. m.)

EXCELLENCY: I have the honor to pass to the hands of your excellency the accompanying copy of the communication which, under this date, I address to my colleague, the minister of war, asking him to be pleased to dictate the opportune orders, to the end that there be initiated in this capital the proceeding in conformity with the clause of the protocol of Washington to which the said communication refers.

I avail myself, &c.,

FERNANDO CALDERON Y COLLANTES.

[Inclosure in 1 in No. 906.]

MINISTRY OF STATE.

EXCELLENCY: The grave question to which the capture of the Virginius in the waters of the island of Cuba gave rise terminated with a protocol, signed in Washington on the 29th day of November, 1873, between Rear-Admiral Don José Polo de Bernabé, as the representative and envoy extraordinary and minister plenipotentiary of Spain near that Government, and Hamilton Fish, as the Secretary of State. One of the clauses of that protocol is literally as follows:

"It being understood that Spain will proceed, according to the second proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty-obligations, and will arraign them before competent courts and inflict punishment on those who may have offended."

Subsequently, in the note addressed on the 3d day of December, 1874, by our minister of state to the minister plenipotentiary of the United States at this court, a statement was made, which is also literally as follows:

"The government desires and is disposed to comply in every point with all the stipulations contained in the protocol of the 29th of November, 1873, (which is the one I have just cited;) and considering the contents of the second proposition made by (*sic*) your excellency's predecessor in your legation as one of the elements of the complete and final settlement of the question which occupies us, it will proceed to give the proper orders to the end that, by the competent tribunal, shall be instituted an inquiry with respect to the conduct of the authorities of Santiago de Cuba who intervened in the conduct of the trial and sentence of the American citizens who were executed in that city, exacting of them the responsibility which they may have incurred for infractions of law or of international treaties."

The present is not the fitting occasion for examining the protocol referred to; it suffices to know that it constitutes an obligation on the part of the Spanish government, ratified, although it was not necessary to do so in order to comprehend that it must be religiously fulfilled with promptitude and in good faith, although, for causes foreign, doubtless, to the will of the government of His Majesty, it has not yet come to be executed after the long period of time which has elapsed. This is demanded by the consideration and respect which we owe to all friendly nations and governments, and by the honor of Spain, involved in the loyal fulfillment of her pledges.

With this object, there was requested, through the worthy predecessor of your excellency, a report (*informe*) from the supreme council of war, and the latter, in its turn, called for it from the fiscal tribunal of the same branch of service in the island of Cuba; which report has not yet been rendered.

This delay cannot justify the backwardness of the fulfillment of the compact made with the government of the United States; and therefore, by order of His Majesty the King, (whom may God guard!) I have the honor to address myself to your excellency, in order that you be pleased to dictate the opportune orders to the end that there be immediately initiated in this capital the proceedings in conformity with the above-inserted clause of the protocol of Washington.

This being done, the fiscal of the tribunal, or else the person who may be named according to the prescriptions of our military law, can call for the data and documents of reports which he may judge necessary in order to insure the justice of the finding which may result; and even if it should appear that it is another tribunal which ought to have cognizance in the matter, there can and should be remitted to the latter, according to the legal prescriptions and incontrovertible jurisprudence in this respect, the papers and proof which may have been obtained.

The gravity and urgency of this matter lead me to hope, in view of the enlightenment and rectitude of your excellency, that you will not delay the adoption of the

measures I have just indicated, communicating the same to me, in order that I may make them known to the minister plenipotentiary of the United States at this court.

God grant your excellency many years.

The Palace, April 11, 1876.

FERNANDO CALDERON Y COLLANTES.

The Señor MINISTER OF WAR.

[Inclosure 2 in No. 906.]

Mr. Cushing to Mr. Calderon y Collantes.

LEGATION OF THE UNITED STATES,
Madrid, April 12, 1876.

SIR: I have received with lively satisfaction your excellency's note of the 11th instant, informing me of the decisive step adopted in the affair of Santiago de Cuba, and have lost no time in communicating the same to my Government, which will not fail to see in this act proof of the good faith and sense of justice of His Majesty's government.

Your excellency's communication to the ministry of war sets forth in language unanswerable the considerations of national honor which induce the present action. I cannot permit myself to doubt that not those weighty considerations only, but the sentiment of public duty as well, for which his excellency the minister of war is so highly distinguished, will impel him to give immediate effect to this explicit instance of the King's government in the premises. Will your excellency permit me to add some pertinent suggestions?

The government of His Majesty has thus far been eminently one of national reparation, of political reconstitution, of social re-organization for much-afflicted Spain. It has victoriously subdued armed rebellion in Valencia, Cataluña, Navarra, and the Basque provinces. It has maintained domestic order in the residue of Spain. It has resolutely encountered that greatest of all other dangers for Spain in modern times, the convocation of the Cortes and the discussion of a new written constitution. It sincerely aims to accomplish the great and difficult object of reconciling freedom with order, tolerance with religion. It desires that, without ceasing to cultivate manifestations of high intelligence, eloquence, literature, science, the fine arts, Spaniards should learn also to cultivate material interests in common with the other great peoples of Europe. It labors to counteract the hereditary predisposition of Spaniards to revolts, to insurrections, to civil war, and to persuade them to believe that

Peace hath her victories no less renowned than war.

In fine, His Majesty's government would fain lead Spain onward and upward to her merited seat in the grand concert of the civilized nations of the world, through the "golden gate" of dignity, honor, and self-respect; to do which it needs that she shall at all hazards acquire stability of domestic government; that she shall cease to squander her resources in sterile civil wars; in fine, that she shall possess herself in order that her voice may again be as potential, if not as it was in the heroic days of the Catholic kings and of Charles I, yet at least as much so as in the hardly less glorious ones of Charles III.

Are not such the lofty and patriotic aspirations of His Majesty and of his government? I know they are. And hence it is that, to-day, Spain receives from all the foreign powers of Europe and America, monarchical and republican alike, testimonies of reawakening confidence, such as she has not heretofore enjoyed since the commencement of her public disasters in the flagitious invasion of her by foreign armies in the execution of the semi-insane projects of ambition of the Emperor Napoleon.

Will Spain succeed in this mighty effort to at length repossess herself, and so to convert the hopes of other nations respecting her into assured faith? I sincerely trust that she will; and this last act of His Majesty's government encourages me in this respect. For permit me to say, not the United States only, but other powers also, have been waiting for more than two years in solicitous expectation of *some* government in Spain, having will and strength to execute international conventions involving the possible censure of an officer of the Spanish army.

The United States, Great Britain, Germany, do not hesitate to try, to cashier, and if need be to execute an officer of the army or navy guilty of dereliction of duty, especially if the act be injurious to foreign powers.

We, of the United States, republic as we are, have done this repeatedly, and in signal cases, at the instance of Spain. And shall regenerated Spain fail in this respect? No, says my Government; no, say other governments, not if she has in truth entered on the path of regeneration.

I touch, and but touch, on a point of the domestic policy of Spain, because it is or the essence of the pending question between the two governments.

It may be that the considerations adduced in this note are outside of the cold and stiff commonplaces of ordinary diplomatic discussion. Be it so. But those considerations do but present the true arguments on which the pending question turns. And

must the discussion between two friendly governments be so restricted by vain diplomatic forms as to be forced to pretermit all arguments of reality and truth? No; a thousand times no; provided the two governments sincerely desire, as we do, to maintain good understanding.

In other fields of discussion we make use of the arguments which the conditions of the question require and which we deem the best fitted to express our own conviction and to produce similar conviction in the minds of others. Why, in the most important of all discussions, diplomatic argument between sovereign states, involving, of course, possible issues of peace and war, should we be deprived of the full use of reason?

Thus to sacrifice substance to supposed exigencies of mere form would be, according to one of the current proverbs of my country, to represent the drama of "The Prince of Denmark" with the part of Hamlet omitted; or, localizing the illustration, to give "La vida es sueño," leaving out the prince.

I venture, therefore, with reservation at the same time of all possible intention of respect for His Majesty's government and for your excellency, to put forward what, in my opinion, is the impressive aspect of the present subject, and which it would be insincere in me not to express in plain words, in a conjuncture where distinct perception of the truth is of equal moment to both governments.

Meantime I assume that the ministry of war will promptly respond to the incitation addressed to it by your excellency, and that thus an apparently limited, but really grave, question will cease to encumber the relations of our respective governments.

I augur still more good from this manly act, namely, that His Majesty's government will now, relieved as it is of its enormous burden of civil war in the Peninsula, incline itself to adopt wise measures for the termination of the deplorable contest in Cuba, which, while pre-eminently calamitous for Spain, is likewise, although in a less degree, a calamity for the United States.

I avail myself, &c.,

C. CUSHING.

No. 292.

Mr. Cushing to Mr. Fish.

No. 921.] LEGATION OF THE UNITED STATES,
Madrid, April 21, 1876. (Received May 8.)

SIR: I have just received from the minister of state a note, dated to-day, copy and translation of which are annexed hereto, informing me that the supreme council of war has declared itself competent to try the case of Burriel, and has formally instituted the corresponding proceedings and appointed a prosecuting officer and secretary.

I have, &c.,

C. CUSHING.

[Inclosure in No. 921.—Translation.]

Mr. Calderon y Collantes to Mr. Cushing.

MINISTRY OF STATE,
Madrid, April 21, 1876. (Received April 21, 3.30 p. m.)

EXCELLENCY: SIR: I have the honor to inform your excellency that, in virtue of the communication which I passed to the ministry of war, and of which I transmitted to your excellency literal copy, claiming the immediate fulfillment of the convention with the Government so worthily represented by your excellency at this court, contained in the protocol signed at Washington on the 29th day of November, 1873, concerning the judicial proceedings against those who may prove to be culpable for the consequences to which the seizure of the Virginius gave rise, the supreme council of war, to which the señor minister of that department passed my above-mentioned communication, has declared itself competent to have cognizance of the cause.

In initiation thereof, and in consideration of its importance, it has appointed as fiscal in the cause the robed minister of the same supreme council, Don Carlos Apolinario Fernandez de Souza, and as secretary, him who already is secretary of that high body, Brigadier Don Francisco Aguirre.

With this, remains fulfilled on the part of the government of His Majesty the obligation which was contracted toward the Government of the United States by the aforesaid protocol of November, 1873. The rest remains exclusively in the charge of the supreme council, which is the most elevated body in its department in our country, and which, as a tribunal of justice, will proceed according to its usages, and with absolute independence of the executive power, in the pursuance of the principle universally recognized in countries governed by liberal institutions.

In the midst of the pain caused to me by the memory of the acts which gave origin to the before-mentioned protocol, it is a source of satisfaction to me that it is the government of which I have the honor to form part which gives due fulfillment thereto as a proof of the honorability and loyalty wherewith it endeavors to fulfill, and will fulfill, all obligations contracted.

I avail myself of this occasion to reiterate to your excellency the assurances of my most distinguished consideration.

FERNANDO CALDERON Y CALLANTES.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

No. 293.

Mr. Fish to Mr. Cushing.

No. 3(5.] DEPARTMENT OF STATE,
Washington, May 17, 1876.

SIR: I have the honor to acknowledge the receipt of your dispatches 918 and 921, in reference to the case of Burriel.

With your No. 921 is inclosed a note from the minister of state bearing date the 21st April ultimo, informing you that the supreme council of war has declared its competency to have cognizance of the case of Burriel, and has appointed a fiscal and a secretary for its prosecution. The minister, thereupon, says: "With this remains fulfilled, on the part of the government of His Majesty, the obligation which was contracted toward the government of the United States by the aforesaid protocol of November, 1873;" and adds, that the rest remains exclusively in the charge of the supreme council, which will proceed with absolute independence of the executive power.

Although the exact words of the note of the minister of state would seem to imply that the discovery of a tribunal having jurisdiction of the case, and the appointment of a fiscal and secretary, is, of itself, a performance of the obligation assumed in the protocol, it is not apprehended that such was the intention of the minister of state. The protocol of November 29 provided that "Spain will proceed according to the second proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts and inflict punishment on those who may have offended." The government of Spain has, as it appears, now only determined on the tribunal before which the parties can be arraigned, and through which proper punishment can be inflicted; and in so doing Spain has, after a delay of two years and a half, taken a preliminary step toward the fulfillment of her obligations by this protocol. I have not learned as yet that any person has been arraigned before the tribunal in question, much less that any investigation has been had or any punishment inflicted. The Government of the United States has been unable to comprehend any good reason for delay, and receives with satisfaction the intelligence that Spain has taken this preliminary step referred to, but it is hoped that it is not intended to be stated that this step so taken is the performance of the entire obligation, and that the government of Spain will appreciate that her obligation is to arraign the individuals who have offended, and to punish those who have violated her laws and treaty obligations.

In order that no doubt may exist on this question, you are instructed to call the attention of the minister of state to these expressions in his

note, and to convey the hope of this Government that, after the delay which has occurred in these preliminary steps, the remainder of the obligation will be promptly fulfilled.

While the United States has made no claim that the executive should control the tribunal and its decision, there can be no doubt that the obligation assumed requires that the matter be proceeded with, and, if the parties be found guilty, that they be punished. An initiation of an investigation cannot be a performance.

I am, &c.,

HAMILTON FISH.

No. 294.

Mr. Cushing to Mr. Fish.

No. 981.] LEGATION OF THE UNITED STATES,
Madrid, June 12, 1876. (Received June 29.)

SIR: Bearing in mind that the officers of the Tornado, equally with D. Juan Burriel, in fact if not in official responsibility, and, indeed, with anteriority to him in the course of events, are implicated in the execution of the ship's company and the passengers of the Virginius, it is interesting that the legal proceedings in the cause have taken another step, it being announced that "the expediente drawn up on account of the occurrences on board the Tornado, after the capture of the Virginius, have been referred for report to the supreme tribunal of the navy."

I have, &c.,

C. CUSHING.

SWEDEN AND NORWAY.

No. 295.

Mr. Andrews to Mr. Fish.

No. 314.] LEGATION OF THE UNITED STATES,
Stockholm, December 28, 1875. (Received January 21, 1876.)

SIR: * * * * * * *

The expedition of Mr. A. E. Nordenskjöld, professor of mineralogy in the Academy of Sciences, Stockholm, to Nova Zembla and the mouth of the Yenisei River, has attracted much attention. It was his seventh expedition to the Polar Sea, and, like that to Spitzbergen in 1872–'73, was fitted out wholly at the expense of a public-spirited private citizen of Sweden, Mr. Oscar Dickson, of Gothenburg. I think I ought to call your attention to it on account of the interesting observations made by Professor Nordenskjöld on the resources of Siberia during his extensive return-trip of nearly 7,000 miles overland.

The expedition left Tromsö, on a small Norwegian vessel called the Prophet, on the 8th of June last. It was detained by contrary wind five days in the sound between Carl and Ren Islands, and did not pass the North Cape till June 17. It reached Nova Zembla June 22, where

a month was passed in explorations. The Kara Sea was found to be open, was crossed, and the expedition reached the mouth of one of the great rivers of Siberia, the Yenisei, on the 15th of August. From there, after a stay of three days, the Prophet returned under the charge of Dr. Kjelman, to her port in Norway, while Professor Nordenskjöld, accompanied by Drs. Lundström and Stuxberg and a crew of three Norwegian whale-fishermen, started up the Yenisei River in an open boat, loaded to the gunwale, on the return trip through Siberia.

Near Dudinha, a short distance south of the seventieth parallel of latitude, Professor Nordenskjöld and party reached the steamer Alexander, trading on that river, on which he took passage to the town of Yenisei; thence by the way of Krasnojarsk, Tomsk, and Omsk, (the route taken by Mr. Perry McD. Collins on his journey to the Amoor in the winter of 1856–'57) he reached Ekatarenberg, in the Ural Mountains, on the 29th of October.

Numerous botanical as well as other collections were made in the valley of the Yenisei, and after these have been examined and studied in connection with the plants of other countries and latitudes, a full report of the expedition will be made, which will doubtless shed new light in respect to the climate and agricultural resources of that but little known region.

Professor Nordenskjöld describes the shores of the Yenisei Bay as consisting of low, rocky, naked hills. The bay itself contains numerous islands of a similar appearance. On the 21st of August he arrived at Cape Schaitonskoi, where, for the first time, the dwarf-birch was seen. There, also, large quantities of cloud-berries, also the Swedish cranberry, (*Lingon*,) were found. The second landing-place was Krestowskoje, a deserted settlement of aborigines, the houses having earth roofs. Vegetation in the neighborhood of the cabins was abundant. At Sopotschnaja Konga (Boot-nose) were found the remains of a village; also low bushes with red flowers, (*Empetrum nigrum*,) and grass and herbs 2 feet high. Some of the inhabitants of the valley were first met at the confluence of a small stream called the Mesenkin, from the right shore of the Yenisei, and from among whom a guide was hired.

At that point there was abundant grass, dark-green alder-bushes 2 feet high, and many kinds of other bushes, high-grown, namely, *Sanguisorba*, *Galium*, *Delphinium*, *Hedysarum veratrum*. The slopes of the sand-hills in the interior were partly covered with *Alyssum*, *Dianthus*, *Oxytropis*, *Saxifraga*, *Thymus*, &c. No erratic blocks were there found in size like those in Sweden, from which he inferred that the sand-layers of the adjacent untimbered country were not of glacial origin. At Cape Gostinoi, among other vegetation, the *Angelica* was found 4 feet high. By the 28th of August he began to meet dwellings of fishermen. He bought 25 pounds of fish for one ruble, (77 cents.) He also put up in spirits a collection of the different sorts of fish in that river, which will be brought to Stockholm.

The Yenisei contains an abundance of good fish, among them being the njelma, tscher, and omul of the Coregonus or salmon family; also the ocetrina or "sterlet," which at St. Petersburg is considered the most luxurious sort of fish.

The first sight of anything like timber was had near Dudina, at about the seventieth degree of latitude. But it was only pine, 30 feet high. This continues for about a hundred miles south, when good pine forest begins; and thence all the way up the valley to a point a little south of the town of Yenisei is a vast primeval forest of large pines. This extends not only toward the west but a great distance to the east, and

constitutes, probably, the most extensive forest in the world. All of the way from Krasnojarsk, on the Upper Yenisei, to the Ural Mountains the country is generally level, a prairie of very rich, black soil, called in Russian tschernosem, with occasional patches of hard wood, for the most part birch. On the route of travel settlements occur about every 20 miles, but they do not extend north of the main route. In this part of Siberia abundant crops of rye and other grain are produced, the price of which, for want of a market, is very low.

Four steamers now trade on the Yenisei, while on the Ob, the next large river to the west, twenty steamers are employed.

The chief trade on the Yenisei is in furs, ivory, and fish. The current of this river is tolerably strong, though not to the extent of hindering navigation. It is of a dark color and deep. By making some improvements on its eastern fork, the Angara, which takes its rise in Lake Baikal, it is claimed there can be continuous navigation to the lake itself from the sea. From Lake Baikal to Tschita, which Mr. Collins reported to be the head of navigation on the Amoor, the distance is comparatively short. A glance at the map will show what a vast line of water-transportation may there some time be opened up.

Professor Nordenskjöld thinks it probable the Kara Sea is open six weeks every year; but admitting that as often as every third year it is closed with ice, still he thinks its navigation may be availed of to some useful extent, since it requires but four days for a steamer to make the passage from Archangel to the Yenisei, and but three and a half days from the North Cape to the Yenisei.

Some twenty years ago there were public men in our country who supposed that the Amoor River would soon become a field of very extensive and profitable commerce for Americans, but their expectations have not been realized. Nor is it best to be too sanguine in respect to the advantages of this new sea-route to the Yenisei, which it is claimed has been opened by Professor Nordenskjöld. His expedition, however, will, on the whole, prove of much scientific value, and such is the general estimate which has been placed upon it. At Moscow, St. Petersburg, and Helsingfors splendid banquets by the first official, scientific, and commercial people were given him, and he has received similar compliments here and at Gothenburg.

In 1877 he intends to undertake a voyage through the Polar Sea and Behring's Strait. It is understood that expedition also will be fitted out at the private expense of Mr. Oscar Dickson.

Such a voyage will naturally attract the attention of our countrymen on account of our interests in Alaska.

I am, sir, &c.,

C. C. ANDREWS.

No. 296.

Mr. Andrews to Mr. Fish.

No. 315.] LEGATION OF THE UNITED STATES,
Stockholm, January 3, 1876. (Received January 25.)

SIR: I have the honor to report that the number of Swedish emigrants who during the year 1875 shipped from the port of Gothenburg to the United States was 3,978, being 657 more than during the year 1874.

It is estimated that during the year 1875 as many as 2,500 Swedes returned from the United States, through the port of Gothenburg, to their native country.

I am, &c.

C. C. ANDREWS.

No. 297.

Mr. Andrews to Mr. Fish.

LEGATION OF THE UNITED STATES,

No. 327.] *Stockholm, March* 23, 1876. (Received April 13.)

SIR: I beg leave to state that in my No. 322, of the 17th ultimo, relative to the adoption by the Riksdag of an amendment to the constitution authorizing the King to select from among the members of the cabinet one to be minister of state and leading member, I erroneously reported that it would be necessary for the amendment to be passed by a succeeding Riksdag. On the contrary, it is sufficient to effect a change in the constitution of Sweden that the identical amendment has been considered at a previous Riksdag and then passed by each chamber of a following Riksdag—a new election of the second chamber having intervened—and that it finally becomes approved by the King.

The amendment in question, to paragraph 5 on the form of government, has received the King's approval and has become a part of the constitution. It provides that the King shall select from among the members of the cabinet one to be minister of state and leading member of the cabinet. Heretofore, the head of the department of foreign affairs as well as the head of the department of justice has had the title of minister of state. Now, the former is to be designated simply as the minister of foreign affairs. The head of every other department is to be designated as chief of the same.

The King has directed that during the time the present incumbent of the ministry of foreign affairs holds his position he shall retain the title he has heretofore enjoyed of minister of state.

At present, Baron De Geer, chief of the department of justice, is by general consent the one most suitable to act as leading member of the cabinet, and he was on the 20th instant appointed by the King to that position.

Among two or three other amendments to the constitution which the King has just approved, the more important, perhaps, is that to the eightieth section on the form of government, providing that in case another military establishment shall be created by law, involving at the same time the abolition of the present so-called "indelning" military system, then such military establishment shall not be altered without the joint consent of the King and the Riksdag.

I have, &c.,

C. C. ANDREWS.

No. 298.

Mr. Andrews to Mr. Fish.

No. 336.] LEGATION OF THE UNITED STATES,

Stockholm, May 23, 1876. (Received June 26.)

SIR: It seems now to be admitted that poor-laws as administered in some countries have not only tended to propagate pauperism, but to ex-

ert a general demoralizing influence. This fact, taken in connection with the large immigration the United States have received and are likely in future to receive, from among the poorer classes of Sweden and Norway, will perhaps make it of some interest to the Department to be informed as to the character and operation of the poor-laws of these countries; and more especially as their policy on this important subject may reflect light upon kindred questions.

PHYSICAL CAUSES AFFECTING PAUPERISM.

Looking at the Scandinavian peninsula on the map, one might infer that its climate was particularly severe, and that it would necessarily have more poor people than other countries.

Such is probably the popular idea, and yet I think it is not a correct one. The Scandinavian winter is long and rigorous, it is true, and it is undoubtedly a drawback to the production and accumulation of wealth. Indeed, the ancient Swedes reckoned time by winters instead of years. Yet, from the influence of the sea-temperature, the climate is not so severe as strangers generally suppose.

I have shown in a previous dispatch that the winter-temperature at Stockholm is but slightly lower than that of the State of New York, and that the harbors on the western coast of Norway remain open the year round. The length of the days in summer is almost equivalent to an extra summer-month. Autumn-sown wheat and rye are leading and successful crops in Sweden. All varieties of apples are raised on more than a third part of the territory of the peninsula, which, after that of Russia, is the largest of any power in Europe. Admitting, however, that the winter is an obstacle to wealth, so, in one respect, it helps to prevent poverty, for it makes foresight compulsory. The Scandinavians are undoubtedly better housed and live more comfortably in the winter than the inhabitants of southern climes. A French traveler who visited Sweden in the winter of 1634 states that the people were "neither ragged nor hungry, as with us." "Among the ancient Swedes," says Geiger, "the poor were so few that the first Christians could only find a use for their alms in foreign countries." There are traditions of ancient plenty in the country. Norse literature that is seven hundred years old shows us the Norwegian as he tilled the soil a thousand years ago, and represents that one of his strong reasons against Christianity was the absurdity of abstaining from labor one whole day out of every seven. In recent times Sweden's export of grain in a very good year has exceeded four bushels to each inhabitant.

Failures of crops are perhaps no more frequent than in other countries. In both Sweden and Norway land is abundant, and for the most part owned by those who cultivate it. Stock-raising and the dairy are remunerative, and capable of a much larger development. The forests, mining, and the fisheries are important resources. Manufacturing is progressing fairly; and, besides, there is the great industry of maritime transportation, the united tonnage of both countries being next to that of the United States and the third in extent in the world.

While it can thus be seen that, so far as nature is concerned, the inhabitants of the peninsula have no special cause for poverty, it may well be supposed that in times past war and pestilence have, singly or together, produced much destitution. Sir Archibald Alison does not, probably, exaggerate when he says that Sweden did not recover in half a century from the loss entailed by the wars of Charles XII. "The sufferings of the people in those times," says Geiger, "pass our conception." The pestilence which occasionally raged in previous centuries

was even more appalling in its effects. That, for example, of the fourteenth century, which came through Norway from England, utterly desolated many parts of the country, so that, after a long period had passed, churches were discovered in the midst of forests. The plague came again in 1350–'60, and at later times.

Such were the numbers of poor people whom wars and failures of crops had collected about the capital in the middle of the sixteenth century that the King's councilors, according to a government record of that time, complained that their carriages, on the way to the palace over the north bridge in Stockholm, were obstructed by the mass of beggars which besieged them.

HISTORICAL NOTICE OF SWEDISH POOR-LAWS.

The old provincial laws of Sweden prescribed the duty of families to provide for their sick and needy members, and for the protection of the community against vagabonds and beggars.

A law of the province of Upland required the pauper and maimed person to be passed from village to village, and that each farmer should support them a day and night. It was not till after the Reformation that the care of the poor became a subject of state legislation; and even then it was treated as a voluntary matter, as was the case in the church-law of 1571—eleven years after Gustavus Vasa's death. This law, among other things, authorized the clergy to issue begging letters, which authorized the holder to solicit alms. After more than a century, in 1686, such letters were prohibited from being used outside the parish in which they were issued. It will be remembered that the first complete poor-law of England, that of 43d Elizabeth, was passed in 1601. In 1624, under Gustavus Adolphus, a royal proposition to the Riksdag sets forth that there was danger of mendicancy getting more and more the upper hand in all the counties; that the hospitals in the towns were so badly supported and administered that no one, however wretched, would demand admission into them; that thereafter in every county there ought to be a central hospital; that poor children able to earn their subsistence should be put out to service; and that separate houses should be built for those of tender age. But the only result of that plan was the so-called child-house, "Barnhuset," in Stockholm, an institution which still exists. The yeomanry, who from time immemorial had exercised political rights, in their chamber of the Riksdag made objection to the plan on the ground that the burden would fall chiefly on them. (The nobility, on the score of rendering military service, had for centuries been exempt from the payment of taxes.) An act of February 28, 1642, required the building of poor-houses at the churches where already not existing.

The church-law of 1686 required pastors to see that the poor of the parish were not left uncared for; but it seems that it was not till the law of 1698 was enacted that any compulsory provision was made for the poor. That act required that on certain occasions, such as the first publication of marriage-banns, funeral ale, churching of women, thanksgiving for recovery, inventory after death, and the receipt of legacies, dues should be paid to the poor. By the act of 1734, sixteen years after the death of Charles XII, all who lived in a parish were required to build and maintain the poor-house. As early as 1749, when Sweden's system of statistics was first established, pastors were required to make returns to the central government of the number of differently classified paupers.

The law of December 5, 1788, authorized parishes to refuse the acquirement of settlement in their limits by any one whom it supposed might in future require public support. From 1808 to 1855 legislation in regard to pauperism was frequent. The law of 1853 so extended the right to relief that there became, says the report of the bureau of statistics for 1870, open complaint as to the largely-increasing burden of poor-care.

SYNOPSIS OF THE PRESENT POOR-LAW OF SWEDEN.

Recently two important reforms have been adopted in the Swedish poor-law. Previous to 1871 relief was granted about as a matter of course to every applicant, but by the act of June 9, 1871, it cannot be granted, as a general rule, except to those who lack the ability to earn their support. The beneficial effects of this change are already clearly perceptible. The other reform consists in the obligation of every local poor-board to send annually to the central bureau of statistics a detailed report as to the number, cost of support, &c., of its poor. The bureau of statistics is now preparing its first report on this matter since the plan went into operation, and after its publication, toward the end of this year, one will be able to acquire much fuller information on the whole subject of pauperism in Sweden than is now the case. Section 1 of the law of 1871 provides that needful poor-care shall be granted to any minor under the age of fifteen, or person who, in consequence of old age, defect in body or mind, is incompetent to acquire what is absolutely requisite for sustaining life, and lacks means of his own and support and care by another.

Section 2 provides that for the granting of poor-care in other case than what is mentioned in section 1 the poor-district must prescribe the grounds on which its administration shall act. Where these have not been prescribed, the administration will grant poor-care to the extent it finds needful.

The law further provides that every parish in the country and every city or trading town which has its own communal administration shall comprise a separate poor-district, to be managed according to resolutions of the communal meeting, or, where there are communal deputies, by them, and in cities by the common council.

In the country a commune, or poor-district can divide itself into subdistricts, ("rotar,") with the obligation of every subdistrict to provide for its own poor; but under extraordinary circumstances a subdistrict may receive contribution from the whole district.

A poor-district may singly, or by uniting with a neighboring district, build a compulsory work-house, but in every such case application must be made to the state government, through the county government. Every poor-district is enjoined to manage in accordance with law its poor-care in the manner best adapted to its section of country, nevertheless so that begging may be prevented, and to regard as important the providing of work-houses for such as stand in need of household relief, and to endeavor through the creation of saving-funds to prevent, so far as possible, the need of poor care or relief in future. In other words, to make the prevention of pauperism a main feature of their policy.

The communal supervisors are the overseers of the poor, or poor-board. The pastor is, by virtue of office, a member of the board. The number of the poor-board is not to be less than five in any city, nor less than three in the country. They are chosen by the qualified elect-

ors of the commune. In subdistricts the poor-care is managed by one supervisor, to be chosen by such subdistrict. The voting by the poor-board is open, but secret ballots may be used when demanded.

Applications for relief are to be made to the chairman of the poor-board of the district in which the applicant lives, to the pastor, or to the person specially assigned to receive such applications, or to a police officer. The proper authority must procure exact information as to the applicant's condition and manner of life, and whether, and to what degree, relief should be granted; and where a child is to be cared for, to see that it is provided with a fixed residence, and even instruction and Christian nurture.

No one, on account of future risk of poor-burden, shall be prevented from choosing a place of residence, thus repealing the old provision in regard to settlement.

Beggars are to be arrested, and may be sentenced to public work not less than one month nor more than six months; or they may be sentenced to work in the county jail.

A person who, from indolence or indifference, causes a child or wife to need poor care, must himself stand in custody of the poor-board till the expenses are paid. For misbehavior a pauper's rations may be reduced. [It is the practice in some poor-houses also to require inmates who violate the regulations to wear a dress of particular color which marks them as offenders.] Minors under fifteen years of age are liable to receive corporal punishment.

A pauper or an applicant for relief who wishes to make complaint, does it through the chairman of the poor-board, who must immediately forward it to the chairman of the communal assembly, magistracy, or council, who lays it before the communal meeting. If the latter tries it, the decision is communicated to the governor of the county.

A poor-district which has duly furnished aid to any one whose residence is in another district, shall be re-imbursed by the latter district on proper requisition.

Where, in a district the revenues from real property and income-tax, from fines, church collections, donations, and other such receipts are insufficient for defraying the expense of poor-care, there shall be levied in addition a personal tax of not exceeding 50 "öre" (18 cents and 4 mills) for each male, and 25 "öre" (6 cents and 7 mills) for each female who is a resident of the district and has attained the age of eighteen years. What is required thereover is to be supplied by the ordinary levy for supplying the deficiency of local revenue.

As it is sometimes the case in Sweden that a landed property comprising iron mills, mines, or manufactories embraces a large area, to the extent of a township or more, and upon which hundreds of people are residing, the law provides that where the poor-burden of the district in which such property is situated exceeds the ordinary revenue, the poor-board may agree with the proprietor of the estate for supplying the deficiency. But where no agreement is had, the county governor may, after the proprietor has been heard in the matter, in his discretion, impose upon him a proper yearly contribution, but not exceeding 10 "kronor"* ($2.68) for each household or mess. So the proprietor is allowed, if he prefers, to assume individual responsibility for the care of the poor on his estate, in which case he is exempt from one-half the above-mentioned tax for supplying the deficiency of local revenue.

Every poor-board is required to make statistical returns according to forms prescribed by the state government.

* 1 kronor is equivalent to $0.26\frac{88}{100}$.

STATISTICS OF PAUPERISM IN SWEDEN.

The last report which has been published on pauperism in the whole kingdom of Sweden is that issued by the bureau of statistics for the year 1870; but it is acknowledged to be based on returns less reliable and complete than what may be expected under the law of 1871. From this report it appears that the number of poor-districts was 2,434, and of subdistricts, 3,017. The number of poor-houses in the country districts was 2,400, with room for 20,000 persons; also, about the same number of cottages, with room for 10,000 persons. The number of poor who received full support was 85,147, of whom the remarkably large number of 36,985 were children; the number receiving part but not full support was 119,231, or of both classes together, 204,378, being 49 to every 1,000 inhabitants, or 4.9 per cent. (If to this number should be added those who received help from numerous permanent charitable institutions and funds, it would be increased by several thousands of persons, as will be seen further on.) Of the whole number of poor, 167,665 lived in the country and 36,713 in cities.

From 1864 to 1870, the increase in the number of children who received full support was 11,655. "This large increase of children who needed full care," says the report, "has been specially complained of by several districts, which have attributed the causes thereof to the increase in the number of illegitimate children; increased neglect of parents, and particularly the fathers, to provide for the family's support; removals, emigration from the country," &c.

Of the whole number of poor, 80,666 were males, and 123,712 were females. This large proportion of females is ascribed to the fact that they are longer-lived in Sweden than males. The average duration of life for females is 46.4 years; for males, 42.8 years. There were in the country 28,153 males and 38,359 females who received full support, and 39,607 males and 61,546 females who recived part but not full support. In the cities, 8,988 males and 9,647 females received full support, and 3,918 males and 14,160 females who received part but not full support.

The number of adults who received full support in poor-houses were, males, 5,450; females, 10,516; the number who received full support, but not in poor-houses, were, males, 13,365; females, 18,831. It does not appear how many children were in poor-houses.

Of ninety cities in the kingdom, one-quarter part report having one or more work-houses.

The report does not show how many persons received out-door relief, but the remark is made that it is not to be taken for granted that all who received full care were actually in a public poor-house.

The public receipts for poor-care were as follows: Rent of real property, church collections, &c., 813,661 kronor; personal tax, 552,872 kronor; real property and income-tax, 4,908,700 kronor; appropriations by the state, 73,630 kronor: defrayed by other poor-districts than those in which relief was afforded, 66,758 kronor, or together, 6,238,502 kronor. It may be here remarked that owing to the failure of crops, chiefly in the northern counties, between 1866 and 1869, the state granted relief to the amount of 441,960 kronor, and loaned certain counties or parishes 2,637,615 kronor, all of which latter amount has been repaid.

The expenditures for the poor were in the country 4,148,375 kronor, and in cities 1,873,970 kronor, or together, 6,022,345 kronor, ($1,605,961.) Besides this there was disbursed for the poor the annual interest—say 800,000 kronor—on numerous private and permanent charitable funds or endowments, amounting in the aggregate to 16,000,000 kronors. In

addition thereto, of course, were the ordinary transient contributions for charitable purposes, the help extended by hundreds of mechanical, trade, and labor unions, the public provision for maintaining institutions for the deaf, dumb, blind, &c. So, also, there were over seventy public hospitals for the sick, not including military hospitals nor those for children, besides nine asylums for the insane; all of which received pauper as well as paying patients. The cost of administration of these hospitals is not included in the above-mentioned expenditures for the poor, and their existence tends to lessen the actual poor-budget.

PAUPERISM IN STOCKHOLM.

Separate annual reports are prepared at the statistical bureau on poor-care in the city of Stockholm. The latest of these is for the year 1874, and is a neatly-printed octavo document of 42 pages. From this report it appears that the number of persons in Stockholm who directly received relief out of the public money was 7,788.

The average population of the city for the year was 148,847, so that the proportion of paupers was 52 in every 1,000 inhabitants, or 5½ per cent. In 1873 it was 5⅘ per cent., and in 1872 it was 6½ per cent. There were 5,382 who received aid under the first and 2,406 who received aid under the second paragraph of the poor-law.

There were 4,447 who were inmates either of poor or work houses, and 3,341 who received outdoor relief; of which latter number 1,585 were children or minors, and 1,756 were adults. Of the adults who received outdoor relief, 1,101 had no children at home, while 655 had, in all, 1,879 children at home. This last number receiving help indirectly through their parents are not included, as I have ascertained, in the whole number, 7,788. above mentioned. Of the 1,585 children who received direct outdoor relief, 25½ per cent. were illegitimate; while of 159 children supported in the two public institutions for boys and girls, 29.56 per cent. were illegitimate. Here it may be stated that only about one hundred actions a year are brought in Stockholm against fathers of illegitimate children to recover means for the latters' support; and of these only about three-fourths are in any part successful. The average number of persons who received outdoor relief each month was 2,056.

The expense of outdoor relief for those over fifteen years of age was 49,543 kronor, and for those under fifteen years of age, 75,818 kronor, in all, say, 125,000 kronor, which was one-quarter part of the city's public disbursement for the poor.

Till within a few years each parish in Stockholm had its separate poor-house; but now, with the exception of the so-called military poor-house, and the two in Catharine and Maria parishes, those for adults had already in 1874 been consolidated into three large establishments. Of the 4,447 persons who were at poor or work houses, 153 were in the poor-house of Maria parish, 141 in that of Catharine parish, 1,048 at the Sabbatsberg poor-house, 1,784 in the poor and work house at Kungsholm, 990 in the work-house at the south part of the city, 128 in the military poor-house, 131 in the institution for boys, and 28 in that for girls.

The sleeping-apartments in the work and poor houses are much crowded. At the work house at Kungsholm the working-rooms, however, are spacious and airy. This latter institution, singular to say, has a department of lunatics and idiots.

The Sabbatsberg institution dates from 1754, at which time it had room for 300 persons. It is rather pleasantly situated, at the northwest outskirts of the city, in the neighborhood of the Rörsbrand Porcelain-

Works, and has about 12 acres of elevated ground. Belonging to it are two modern buildings of brick, large and spacious, besides three or four old ones. Only its sick and helpless inmates receive full support. The others receive, daily, food of the value of 12 öre, (3¼ cents,) also 2½ knonor (69 cents) per month. They furnish their own clothing and bedding. They have a free place to cook their coffee, and at the main kitchen can buy cooked food at cost rates, according to a fixed list of prices. They must themselves earn the rest of their support in or out of the institution. There are 48 inmates who enjoy a pension ranging from 4 to 130 kronor. There is a very small library, which is much used. A few of the inmates are of noble birth.

The expenses of this Sabbatsberg institution, which on some accounts it has been seen is a peculiar one, were for the year 1874 81,970 kronor, or 78 kronor per inmate; but the interest on the property is not included in that amount.

The person who manages the establishment, and who is also the cashier, drawing, holding, and disbursing the above sum, receives as salary 2,100 kronor ($562.80) per annum in money, moderate quarters, nine cords of wood, the use of a garden, 80 pounds of tallow-candles, and 400 kronor for clerk-hire. He gives bond only in the sum of 5,000 kronor. He is competent, and, besides his known integrity, the fact that he can hold his office during good behavior, and that he is reasonably sure of a pension should he become incapable of filling it, constitute the best guarantee of his fidelity.

It is very easy to see how the economy of such an institution might be sacrificed, as would be the case in some of our cities, if its manager was changed, not, indeed, with the rise and fall of political parties, but with every triumph of a new municipal clique.

The total public expenditures for all the poor amounted to 592,711.70 kronor, ($158,846,) which was at the rate of 76.12 kronor ($20.40) for each person, being 10 kronor more per head than for the previous year. Deducting, however, from said total sum 83,081 kronor and 85 öre, being the net earnings of the poor and work house inmates, leaves the sum of 509,639 kronor and 85 öre ($136,580) as the actual outlay for the poor from the city treasury. Besides this sum, the disbursements out of the income from endowments, to which general reference has already been made, form no small item. Many benevolent people have given while living, or bequeathed in their wills, to societies sums to be permanently invested, and the interest of which is to be applied for the poor. In Gothenburg, which is more of a commercial city than Stockholm, yet having less than half as large a population, these endowments amount to over seven millions of kronor.

In Stockholm they amount at the present time to 5,622,955 kronor, and are administered by upward of sixty different boards of directors or societies. The interest on that sum at 5 per cent. would give an annual revenue of 281,147 kronor.

Perhaps all of the funds are not invested at so much as 5 per cent. interest; and, besides, there is some expense of administration. At any rate, it appears that for 1874 sixty-three of these boards of administration, for 126 separate funds, reported to the poor-board of Stockholm that they had expended of the income from said funds 257,681 kronor (being 23,466 kronor less than what the interest would amount to at 5 per cent.) in poor-relief to 4,014 persons. This sum, equivalent to $69,058, added to the $136,580 of actual public expenditure, gives the amount of $205,638.

The main object of the reports of these several boards or associations

appears to be to inform the city poor-board as to the identity of the persons receiving relief, so that the poor-board itself shall not, at least without knowing it, be helping the same persons at the same time.

It seems that the poor-board is put to some inconvenience because these private associations and boards do not report how much they give to each person whom they assist. If now we add this number, 4,014, supported in whole or in part from the endowments, to the number receiving in or out door relief at public expense, it will make 11,802 persons who received full or part support in 1874. Again, if to this number we add the before-mentioned 1,879 children who indirectly received public help through their parents, it gives the large number of 13,681 who received relief from the public treasury or from charitable associations, being 9 per cent. of the population.

Nor is this all; for not included in that number are the inmates of several well-endowed charitable institutions in Stockholm which do not report to the city poor-board. Prominent among these is the "Freemason's Child-House." This institution is finely situated at Kungsholm, with 60 acres of park-ground and field on which are many beautiful oaks and other trees.

The buildings, which are modern and spacious, overlook a navigable inlet, on which the military academy is situated. It was established in 1753 as a foundling asylum, but now receives only legitimate children—boys and girls from seven to fifteen years of age—generally the children of poor widows. It has occupied its present site only since 1864, and can accommodate 200 children. It now has 94 boys and 36 girls. Besides receiving common-school instruction, the boys learn something of the tailor's and shoemaker's trades and gardening, and the girls sewing and house-work. All learn to mend their clothes. The current cash expenses of the institution are about 50,000 kronor per year, of which amount the Freemasons contribute about 8,000 kronor. The cost of food and clothing for each child in 1874 was about 150 kronor; but including the whole cost of administration and interest on the property, the whole expense of maintaining each child amounted to 500 kronor, or $134. The children generally leave at the age of sixteen, and after confirmation. Places are got for the girls as domestics and for the boys at mechanical trades.

Another similar institution which does not report to the city poor-board is the Mission Home for Children, which in 1874 provided for 63 children, at an expense of about 300 kronor per child; and there are probably enough others to increase the number of persons receiving full or partial support from the public treasury of the city or from private associations to 14,000.

It would hardly be pertinent to the subject, even if it were practicable, to undertake to estimate the relief granted by the many mechanical trades and workingmen's associations.

At the poor and work houses and charitable institutions the principal kinds of subsistence are rye-bread, potatoes, barley-grits, and peas. In respect to humanity, cleanliness, and economy, these various establishments in Stockholm appear to be well administered. About twenty-five years ago there was a defalcation of some 30,000 kronor at one of the private charitable institutions, (Drottninghuset,) but it is very seldom that anything of the kind occurs.

Begging is suppressed, and it is evident that in several respects, and especially in putting those incipient criminals the vagrants into the work-house, the Swedes set an example worthy of imitation in many parts of the United States. Between the vagabond and the burglar the step is short and the difference slight.

INTEMPERANCE AS A CAUSE OF PAUPERISM.

It cannot be denied that the intemperate use of intoxicating drink is one of the leading immediate causes of pauperism. With the steady, though slow, improvement of society, such evils gradually, even if almost imperceptibly, diminish. Of the many statistical reports which, through the enlightened policy of the government, are published, there are none, that I am aware of, which come so closely and familiarly to the homes and habits of the common or poorer classes of people as those officially made by the district physicians and published in the annual report of the state board of health. These physicians receive a moderate salary and good quarters. One of their duties is to make trips in their districts, at public expense, to ascertain the causes of, and to endeavor to suppress, epidemic diseases. They in this way, together with their general practice, have very good opportunities of becoming acquainted with the condition of the poorer classes. The following are a few extracts from some of the reports of these medical officers for the year 1872. The first one relates to workmen in the lumber industry:

"Their earnings, with few exceptions, are spent at the drinking-shops, and when sickness or failing strength occurs they demand help of the commune."—(Dr. Boquist, district in Norrbotten County.)

"Immense quantities of whisky, beer, and a very bad kind of berry-wine are consumed, and, when nothing else can be had, Hoffman's drops. * * * In consequence of this manner of living, health gives way and not much is saved of the present really good earnings. Especially is this the case with the many iron-mill hands, who live, so to speak, for the day, which is so much the sadder, as they often have large families and cannot themselves long hold out with their hard and exhausting labor."—(Dr. Gernandt, district in Örebro County.)

"With regard to the misuse of intoxicating drink, the district is not marked by anything peculiar, except that here, as in other parts of Gothenburg, it is common with a large class of laborers that their earnings are used for whisky, wherefore the poorer people are both physically and morally depraved, the former showing itself through the usual consequent sicknesses, and the latter in neglect to provide for wife and children, who generally fall to the care of the poor-board."—(Dr. Ljungberg, district in Gothenburg and Bohus County.)

"In proportion as their earnings increase their condition in many other respects is improved—better clothes, furniture, food, &c. Yet two circumstances seem still to form a powerful hinderance to a more general prosperity among the laboring class: lack of thought for the morrow, and a steady continuance of intemperance."—(Dr. Ullman, district in Gothenburg City.)

"Perhaps as a consequence of some good years with increased wages, intemperance among the population has evidently increased."—(Dr. Seltervall, another district in Gothenburg.)

And here it may be remembered that Gothenburg is the city where a reform is claimed to have been effected by granting the whole retail of spirits to a single company. The places where liquor is retailed have been improved in tidiness, but it is doubtful if there has been a diminution in the quantity sold.

"Beverage consists mostly of sour weak beer, ordinary beer, and whisky. * * * There are certainly many well-to-do peasants in the district, and not a few of the rich gentry, but by the side of these is a numerous class, not well off, dependent on others, to a great part con-

tending with poverty or oppressed by need."—(Dr. Möller, district in East Gotland County, generally a fine agricultural county.)

"In sanitary respects this district is one of the healthiest in our country, though little is done for the promotion of health. In general the people are untidy. * * * Whisky-drinking is very common. The peasants are proud to have a number of cottages on their little farm, and therefore furnish to the small people ground to build on, but which is too small to cultivate for the most necessary wants; and as heavy rent (in labor) must be paid for the inconsiderable privilege, the result is poverty and misery."—(Dr. Jerling, district in Kronoberg County.)

"The great money resources caused by lumber profits and the brisk business in general, have raised the price of subsistence, house-rent, &c., very much, and especially made man and beast power dearer than ever before known. The large earnings of laborers are however often enough used, to a great extent, in extravagance, wherefore earnings are not greater than before, while on the other hand the moral condition is materially impaired."—(Dr. Baggerstedt, district in Wester Norrland County, 1873.)

"Infants not a year old very often get coffee, and not so seldom whisky, and the intestinal complaints proceeding from improper diet are attributed to '*teething*.'—(Dr. Aström, Sveg district, in mountainous part of Jemtland County, 1873.)

"The large sums of money disbursed among the peasantry and laborers out of the favorable lumber exports of 1872, have been of but slight blessing in general. A workman at the saw-mills who for example has a wife and two small children, earns during the whole summer 20 to 25 crowns a week, but at autumn has not saved a penny. * * * Drinking continues in a frightful degree, and the many steamers are flying grog-shops, where especially youth and even women drink to excess. * * * Sadly enough, young men from fifteen to twenty-five years of age are the most addicted to drink. If matters do not improve, the population in half a score of years will be utterly demoralized."—(Dr. Söderbaun, district in Wester Norrland County, 1873. This physician also dwells on the superstition prevalent among the people.)

"That the manner of living among these extra laborers is not the most orderly, must be apparent, and a great part of the rich earnings are spent at whisky and beer shops, where beer, whisky, and several sorts of wine under the name of 'liberté,' 'calabria,' comprising more or less colored spirit mixtures, are served. Even champagne is not neglected. The other part of the earnings go to the traders and Jew peddlers. * * * During the few years I have lived here, I have, alas, seen the moral feelings of the people sink more and more; and I believe that with the greatest part there is no other thought than the naked material."—(Dr. Kempe, another district in Wester Norrland County, 1873.)

It is due to state that these are some of the most unfavorable passages bearing on the use of spirits, but that they do not give a very exaggerated view of the improvidence which exists is borne out by statements and admissions which appear from time to time in the newspapers, and which pass unchallenged; statements like the following, which is taken from a recent elaborate yet moderate article in one of the daily journals of Stockholm, viz: "But experience has likewise shown that high wages cause the laborers who think not of the morrow to take more Fridays (a day for dissipation) in a week, because they, in any event, had sufficient earnings for their living."

PAUPERISM IN NORWAY.

Norway was in advance of Sweden in abolishing the vicious principle that every one, as a matter of right, is entitled to poor-relief. Her law to this effect was enacted in 1863, and went into effect the following year. But owing partly, perhaps, to a series of bad agricultural seasons, there was increase rather than decrease in the number of persons receiving relief subsequent to this legislation. From 1851 to 1865 the average number of persons who were fully supported was 16 in every one thousand inhabitants, while the number who were partially supported varied from 26 to 29 per 1,000 inhabitants.

The expenditures for the poor gradually rose from 849,600 specie dollars in 1860 to 1,227,400 specie dollars in 1868.

The latest official report which has been published on pauperism in Norway is for the year 1871, when the population was 1,741,621. The total poor-receipts from all sources for that year amounted to 1,324,259 specie dollars, of which amount 447,225 specie dollars were expended in poor-care in cities. The report does not show the expenditures in the country districts, but it may be assumed that they equaled the receipts in those districts.

The whole number of persons who received relief was 161,735, or over 9 per cent. (In Massachusetts, with a population in 1870 of 1,443,156, the number of poor receiving full and partial support was 33,650, and the expense of their support was $1,150,529.)

Of adult males who received direct relief, there were unmarried men, 5,731; married men without children, 6,347; married men with children 14,807; widowers without children, 4,065; widowers with children, 1,714, or together, 33,664.

Of adult females who received direct relief, there were single women without children, 9,457; single women with children, 4,765; widows without children, 11,503; widows with children, 6,454; or together, 32,179.

Of separate persons who received relief for themselves alone, there were orphan legitimate children, 2,733; motherless illegitimate children, 1,164; single adult males, 5,731; single adult females, 9,457; widowers without children, 4,065; widows without children, 11,503; or together, 34,653.

Under the head of families receiving relief, there were married men without children, 6,347; married men with children, 14,807; widowers with children, 1,714; widows with children, 6,454; unmarried women with children, 4,765; or together, 34,087. The following received relief indirectly through others: wives through husbands without children, 6,347; wives through husbands with children, 14,807; or together, 21,154; children where relief was given to married men with children, 46,513; where relief was given to widows with children, 14,648; where relief was given to unmarried women with children, 6,865; or together, 71,841.

The report contains many details as to the number of poor in each district, but does not show what number of persons received full support nor what number were inmates of poor or work houses. Accordingly there is nothing to show the amount of out-door relief.

The public expenditures for the poor in the city of Christiania, with a population in 1871 of 66,657, amounted to $157,078 specie. In this and other cities of Norway, I am informed that out-door relief has been granted to a somewhat undue extent. In Christiania are as many as seven asylums for the accommodation of 950 small children.

Throughout the country as in Sweden are many private endowments

for the poor. Some of the public hospitals for the sick are much praised. The report of the state board of health of Norway for 1871, a well-printed quarto document of 173 pages, contains among other matter remarks by district physicians as to the manner of living among the common classes, of which the following are a few extracts:

"Weak coffee plays the head *rôle* in the huts, together with potatoes and raw-baked milk-cakes. * * Although earnings are not light, yet the lack of system, economy, and household care and industry makes the living, as one might say, from hand to mouth, and for some not even that."—(Dr. Borchsemus, Ullensakers district, Akerhus County.)

"The style of living varies. The homes of well-to-do peasants are tasteful, neat, and sometimes luxurious, while those of the poor and of the cottagers (*husman*, corresponding to the *torpar* in Sweden) are untidy, unwholesome, and sometimes miserable. * * Intemperance is not great, yet, on the way home from town on the evening or night after an auction-day, there is often much drunkenness and disorder, during which knives are used and blood flows."—(Dr. Klingenberg, Eigsberg's district, Smaalenenes County.)

"The uniform nourishment among the poor consists of salt food and sour milk. In Hadeland district the misuse of spirituous drink prevails in a high degree, while in the Faaberg and Ringebu districts it seems to be diminishing."—(Dr. Baumann, Christians County.)

Other passages of about the same tenor might be quoted, while, on the other hand, there is testimony in respect to a number of localities showing progress and improvement in temperance and sanitary regards

OBSERVATIONS.

There being two quite distinct classes of poverty—*voluntary* and *involuntary*—it would seem very desirable that there should be returns showing what cases of relief were of the first-mentioned class, being those where the need arose from causes for which the individual relieved was himself responsible, such as intemperance, indolence, improvidence, &c.; and what cases were of the second or involuntary class, being those arising from the fault of others, from natural infirmity, accident, industrial depression, (produced by war, financial revulsion, or mistaken legislation,) or from failure of crops, and the like.

Without doubt one of the chief remedies against poverty is education. "Economy is not a natural instinct, but the growth of experience, example, and forethought. It is also the result of education and intelligence. It is only when men become wise and thoughtful that they become frugal." Knowledge helps much to give a person foresight, and foresight impels him to that industry and self-denial which leave something for a day of need.

So, also, education supplies sources of rational recreation that may be expected to supplant the gaming-table and the drinking-saloon. Workingmen crave some sort of diversion, and in these countries they seek it to a dangerous extent in strong drink and to a serious extent in gambling.

Intellectual pleasure is, of course, more safe and economical than the pleasures of the cup, and where they can be substituted for the latter there is almost a certainty that the party concerned is on the road to competence instead of to the poor-house. But to what extent must education be carried, in order that it shall conduce to intellectual pleasure? Clearly to that extent that one can enjoy reading good authors. It must go beyond the bare capacity to read, and, at least, to the extent of reading

with ease. If a person has, in childhood, attended school, yet made no further progress than barely to read, his reading will be no pleasure to him; it will be a task which he will avoid, and he will seek recreation from some other source than from books.

When, therefore, the statistics of a country inform us that such a percentage of all the children have learned to read, we must ascertain what proportion of them can read with readiness, if we would know to what extent their education will probably prove to be any source of recreation for them.

It happens that there are some statistics showing the proficiency of young Swedes in reading. Every summer about 30,000 young men from the working-classes are called out for the first time, at the age of twenty-one, for two weeks of military drill. The official report in regard to those called out in 1875, all of whom were born in the year 1854, shows, first, that out of 30,487 young men from all parts of the country who presented themselves at the different mustering-stations, 7,058, or 23.15 per cent., were rejected for physical disability; and, secondly, that of 25,173 who were accepted, only 1 per cent. were unable to read, while only 52.4 per cent. could read with good readiness. There were 46.6 per cent. somewhat practiced in reading. It can hardly be presumed that the 23 per cent. who were rejected for physical disability could have passed so good an examination in reading as those who were accepted. Hence we may infer that scarce half the working population can read with ease and pleasure. And yet all of these young men were brought up at the common schools, and some may have attended the high schools, under a compulsory system of education. A similar system exists in Norway, and the valuable test above mentioned fairly illustrates the practical efficiency of the "folk" or common schools in both countries. It shows that much improvement must be introduced before intellectual diversions can supplant the habit of drinking and the wasteful indulgence which now prevail.

Again, a great obstacle to the well-being of the people is to be found in the low state of female education. The provisions for the education of girls remains much inferior to that for boys. For the latter the State provides high schools in every leading town; but for girls, only common schools. The fact that out of 133,249 children born alive in Sweden in 1874 there were 19,546, or 14 per cent., who died before they were a year old, is a sad proof of the ignorance among women.

The same year 10.8 per cent. of all the births of children were illegitimate, which is an additional proof of the subordinate and inferior position occupied by females of the humbler classes. The wrongs and trials which they are subjected to from the coarse and vulgar are, when summed up, indeed great. With the elevation of the mother in those qualities which inspire respect and obedience, there will come, of course, a marked improvement in the character of those whom she nurtures; and especially in the development of their habits of thrift. It is the moral excellence of the mothers that makes the moral greatness of the state.

The number of savings-banks in Sweden had increased from 186 in the year 1865 to 271 at the end of 1873. In 1865, there was one depositor to every seventeen inhabitants, and the increase was steady every year, so that at the end of 1873 there was one depositor in proportion to every eight inhabitants. The amount which every depositor held in bank averaged 188.44 kronor—say $50 gold. The whole amount on deposit at the end of 1873 was 106,255,037 kronor, being nearly three times the amount on deposit at the end of 1865. The amount deposited

in 1873 was 35,962,776 kronor, or over 5,000,000 kronor more than was deposited in the previous year, and almost four times the amount which was deposited in 1865. There is, however, reason for believing that the bulk of the deposits belong to well-to-do people; also, that the same class comprise the most of the depositors. Among this class it is quite common that every member of the family, and especially every child, has a sum in the savings-bank.

Among the humbler classes the religious sentiment is very strong, and it is not improbable that the instruction they receive in some localities from the clergy from such texts as "Take, therefore, no thought for the morrow," encourages rather than abates poverty. That misery in this world is a providential lot to be expected and almost to be coveted, is a solace which in many countries is administered to the poor from the pulpit.

In my No. 202, on the condition of the industrial classes, as published in the volume of "Commercial Relations, 1873," facts were stated in respect to a number of subjects, such as taxation, the right of suffrage, &c., affecting the welfare of the poorer classes, and they need not, therefore, be introduced here. The demand for labor is not now so great as it was in 1873, yet wages remain about as high as then. The Swedes work slowly, which is owing much, probably, to the practice of requiring them to work so many hours in the day.

Since 1873 the leading topic of discussion in Sweden has not only been that of military defense, but owing to the example of neighboring states it now seems probable that increased military burdens will be imposed on the people by the adoption of a plan for at least ninety days' service.

On the other hand the peasant farmers are agitating for the abolition of the stage-coach service, which for a couple of centuries has, at fixed fees, devolved on them. So the subject of doing away with fences, which are quite an expense, is being discussed.

Co-operative labor, or the uniting of labor with capital, is being introduced, though slowly. There are one or two manufacturing establishments carried on wholly with such labor, and the principle is applied beneficially among operatives in various branches of manufacturing industry.

I have, &c.,

C. C. ANDREWS.

No. 300.

Mr. Andrews to Mr. Fish.

No. 351.] LEGATION OF THE UNITED STATES,
Stockholm, September 25, 1876. (Received October 16.)

SIR: In my No. 314, of December 28, I had the honor to report the success of Professor Nordenshjöld's voyage through the Kara Sea to the Yenisei River. I have now to state that this learned and enterprising gentleman, after serving as a juryman at our Centennial Exhibition, returned in season to make another voyage to the Yenisei, where he arrived August 15. The goods which his vessel took as a venture were stored at Karopowskoj, the most northerly settlement on the Yenisei which is visited by the river steamboats. Having waited in vain sixteen days for Dr. Theêl's overland party, Professor Nordenshjöld started back the 2d instant and reached Hammerfest, Norway, the 18th

instant. The Kara Sea when he crossed it, between the 2d and 7th instant, was almost free of ice. He reports to the patron of the enterprise, Oscar Dickson, esq., that he believes some useful scientific results have been accomplished.

With reference to Dr. Théel's party, I would state that it left here early last spring. The latest information from him is a published letter dated Turuchansk, July 16, when he was proceeding in a boat down the Yenisei, and hoping to reach Dudinskoj July 25. His party was being accompanied and assisted by an intelligent Russian who had been politely detailed for the purpose by the Russian government, and at the latter's cost.

The Norwegian government exploration of the depth, temperature, &c., of the sea between Bergen and Iceland, and for the purpose among others of ascertaining the course of the fish, and under Professors Sars and Mohn and Dr. Danielsen, Captain Wille commanding the vessel, has been successful. The Storthing appropriated 80,000 crowns to be expended for this object the past summer, and agreed to appropriate what may be necessary to continue the explorations three seasons. Their results will be very valuable to science.

I am, &c.,

C. C. ANDREWS.

No. 301.

Mr. Andrews to Mr. Fish.

N. 354.] LEGATION OF THE UNITED STATES,
Stockholm, October 11, 1876. (Received October 30.)

SIR: During the last three-quarters of a century, as you are aware, a complete revolution has taken place in the civil service of the principal European states. Rigorous and impartial tests of qualification have been adopted, and where formerly were incompetency, routine, and peculation, are now efficiency and fidelity. The prosperity of those states is owing in a great degree to the character of their civil service, for it has been made instrumental to the development of their resources and to public economy. Prussia, whose soil and physical resources are third-rate in quality, as compared with those of the United States, while in magnitude they bear but slight comparison with ours, owes it very much to the high order of efficiency which has been introduced into her civil service, that she has risen to be one of the first powers in the world. Improvements in administration have hardly been less in France and Great Britain.

Believing most sincerely that the United States have much to gain in prosperity at home and reputation abroad by a reform of their civil service, and as the subject now occupies general attention there, I have thought it might be useful to communicate to the Department, as I now beg to do, some information in respect to the systems of civil service in Sweden and in Norway. I, of course, do not suppose that it would be practicable or desirable to copy this system into the laws of the United States, yet it is not unlikely that a few useful hints may be derived from them. It is natural, too, that Americans who have noticed the honorable rank these countries has taken at the Centennial Exhibition, should feel an increased interest as to its home administrations.

As preliminary to a sketch of the civil service of Sweden, it may be proper to explain separately the manner in which the tax on spirits is collected; and, also, the way in which defaulters are punished.

COLLECTION OF TAX ON SPIRITS IN SWEDEN.

Having applied to Baron A. H. Fock, chief of the bureau of control over the production of spirits, for information as to the collection of revenue thereon, I was in the course of three days very kindly furnished by him with a clear and comprehensive statement on the subject (in Swedish) from which the most of the following facts are taken:

The quantity of spirits (bränvin) produced in 1874 was 17,340,545 cans (kannor) or 9,988,154 imperial gallons, one can being equal to 0.576 gallon. The tax collected thereon was 13,874,833.22 crowns, (kronor,*) or $3,718,535.30 gold, which was 85 cents in proportion to each inhabitant. (The tax on spirits in the United States the same year was $1.25 per inhabitant.)

The cost to the state of collecting the tax was 361,011 crowns, ($96,751,) being at the rate of 2.6 per cent. of gross receipts. The rate of taxation was and still is 80 öre (21 cents) per can, normal strength 50 per cent. alcohol + 15 celsius, (= 59 F.) However, 3 per cent. of production is free from tax. But an additional tax of 25 öre (¼ crown) must be paid on every can which falls short of or exceeds the quantity which is allowed to be produced at any one manufactory. The cost of production of the spirits varies from 50 öre (13.4 cents) to 60 öre (16 cents) per can; consequently the tax equals 1⅔ to 1¼ of cost of spirits. (The cost of manufacturing whisky in the United States is 16 cents per gallon. The tax being 70 cents a gallon, is, therefore, more than four times the cost of manufacture.)

The season for manufacture of spirits is limited to seven months, October 1 to April 30 of each year. However, the clarifying of raw spirits can take place at other times. Not more than 1,200 cans (692 gallons) nor less than 200 cans (115 gallons) are allowed to be produced at any one manufactory in twenty-four hours. The person proposing to manufacture spirits makes written application to the governor of the county, an officer of much dignity, frequently some ex-cabinet minister, who holds practically during good behavior, and who has a general supervision of county administration, who is appointed by the King. The tax is paid directly into the office of the county treasurer, who holds during good behavior, for that county, of course, in which the manufactory is situated, in advance of production, and for a quantity at one time of not less that 864 gallons; otherwise the spirits are put in public store, and in no case can they come under the control of the manufacturer for disposal till the tax has been paid.

The state's direct watch and control over the production of spirits are as follows: At every distillery is a government controller, appointed by the governor of the county in which the distillery is situated, who sees that the spirits are properly measured and the tests applied as to their strength. The parts of the machinery whereby the spirits could be unlawfully removed are locked or sealed under his care, and the spirit-holder, wherein the ready goods are gathered, is stored in a room specially prescribed, under the lock and key of the government; the key being in the possession of the controller. This latter officer lives on the premises, quarters and board being furnished him at the expense of the manufacturer. A competent person living in the neighborhood of the distillery is selected by the government of the parish in which the distillery is situated, to be a witness of the measurement and testing of the spirits, and who is paid by the state 40 cents a day. Close oversight of the controller is exercised by an overcontroller, who is appointed by

*A Swedish "kronor" is equivalent to $0.26.8.

the King for only one manufacturing season at a time, and for a separate district in which he constantly travels and inspects distilleries. The main security against the state's being defrauded is in the overcontroller's watchfulness of the controller. The persons who are usually appointed overcontrollers are older military officers who have quit or partly quit the service. Their average pay per day is 15 crowns ($3.02) besides traveling expenses. As controllers are usually appointed also older and younger military commissioned and non-commissioned officers. For this service they are not required to pass an examination, but must show to the satisfaction of the overcontroller that they understand the measurement and test of spirits. The reason for taking military officers for this service is that they are generally at leisure during the winter when spirits are manufactured. The pay of controllers by the state is 6 crowns ($1.60) per day; their subsistence and lodging being furnished, as above stated, by the distiller. Neither overcontrollers nor controllers are continuously in the service, but are appointed in the degree and for the period they are wanted. It may happen that they are receiving or will receive a military pension, but no pensions are granted in this particular branch of the service. Neither political nor party considerations enter into the appointment of such officers. As far as known, no considerable loss or fraud has been fully effected since 1860. Substantially the same system of revenue from spirits has been in operation in Norway since 1848.

The legislation by which this system was established in Sweden began in 1855, but was not completed till 1860. For a long period of years previous to its adoption the production of spirits in Sweden had been comparatively free of tax, so that forty years ago there were 170,000 distilleries, the greater part being for "household need," so called, and composed of small, incomplete machinery. Spirits became directly accessible everywhere in the country, and their misuse led in the middle of the present century to an agitation which resulted in the present more stringent system.

Observations.—The leading safeguards of this system seem to be that the tax is paid to a county treasurer, whose tenure of office is permanent, and who himself is under the eye of the county governor, and that no money in any event passes through or into the hands of any officer about the distillery; that the state has absolute and actual control of the spirits till the tax is paid, unless the latter is paid in advance; that the production and measurement are guarded by two of the state's servants, the latter being also inspected and controlled by an officer in higher position; that the two principal officers who watch the manufacture, though appointed for a short period and thereby less able to enter into collusion with the manufacturer, are nevertheless, as a general rule, permanently connected with another branch of the service, and have various grounds of interest to be faithful to the government; and that their appointments are not influenced by party politics. It will be noticed, too, that the three officers who comprise the watch over a distillery receive their appointment from different sources; the witness from the parish government, the controller from the county government, and the overcontroller from the state government. The practice of limiting the production of spirits for any single distillery seems to be a wise provision, as it prevents any sudden and large increase in anticipation of a proposed increase of tax. We have no such control of production in the United States; and for lack of it the Government has repeatedly suffered considerable loss. For example, in 1863, when it was proposed to lay a tax of 20 cents per gallon on spirits, manufac-

turers ran up the production, so that for about a year after the tax took effect but little, if any, spirits were produced. So also distilleries were run to their utmost capacity in anticipation of the tax of $2 per gallon, which took effect in 1865, and then the production suddenly fell. The tax having been reduced in 1868–'69 to 50 cents per gallon, when it was proposed two or three years ago to raise it again there was a further extraordinary increase of production in anticipation of the increase of tax. On those three occasions the United States Government of course lost several millions of dollars, which would not have happened if a system of control over production had been in force like that which obtains in Sweden.

PUNISHMENT OF DEFAULTERS—ACCOUNTS.

The office which has the final revision and settlement of the accounts of all officers who have been intrusted with the collection or disbursement of public money, including even officers of public, charitable, or religious corporations, is empowered with judicial as well as administrative authority. It is called the chamber court, (kammar rätten.) Its judicial authority is exercised by a council of six members and one president, which latter has supervision of all the divisions of the office, who, of course, hold during good behavior. When on the settlement of an officer's accounts it is found that he is a defaulter, and after notice is given him he fails to promptly account for or to pay the balance, the accounting branch of the chamber court forwards his case to the president and council, who proceed to try it. Their sentences are usually exemplary. They *must* sentence a defaulter to punishment in the penitentiary at hard labor for a term of years, or at least six months, together with loss of office and permanent disqualification to hold office. Appeal lies direct to the supreme court. Only about four cases of defalcation a year, on an average, and these of no very great magnitude, arise to be passed upon by this tribunal. One of the latest cases where a defaulter was punished was that of a tax-collector in the county of Kalmar. His defalcation amounted to 26,227 crowns. His two sureties were only answerable for 2,250 crowns, which sum was collected of them, and it is not impossible that a part or all of the balance will yet be recovered from the principal. Nevertheless, he was sentenced to two years' imprisonment at hard labor, (besides disqualification for life for holding office,) which he is now undergoing. Only two or three years ago this tribunal sentenced a whole board of directors of a public charitable institution of Stockholm, all prominent citizens, to pay an indemnity of about 30,000 crowns, because through their lack of proper watchfulness that amount became embezzled. The facts were these: The safe containing the money could be opened only by the use of three different keys, one of which was kept by the treasurer and the other two by two directors. These two directors having occasion to be absent from the city left each his key, though without wrong intention, with the treasurer, who embezzled the funds and absconded.

Such is the wholesome way in which, for a long series of years, defaulters and those guilty of neglect in the discharge of public pecuniary trusts have been dealt with in this country. It was an important reform in the laws of the United States when, in 1846, the loaning out or conversion to his private use in any way of any public money by a disbursing-officer, or any one having the custody of public money, was made embezzlement, and punishable by imprisonment not less than six months nor more than ten years. The law also made any failure to pay over or to produce public money *prima facie* evidence of such embezzlement. Our

law, however, is not so stringent as the Swedish either in theory or practice. Neither here nor in other European states are sureties required for such large amount as with us. Instead of throwing so heavy responsibility on sureties as we do, it would seem a more just and sound policy to throw better inducements to fidelity around the principal, and by other precautions to make it safer to rely more upon him.

EXAMINATIONS FOR THE CIVIL SERVICE.

As a general rule for admission to the civil service of Sweden, a person must at least have passed one of two examinations at the university; but for appointment to subordinate places in the post and customs departments, it is only required that the applicant shall have graduated at one of the high schools, ("Elementarläroverkem,") of which there are thirty averaging about twenty teachers to each. To graduate at a high school in the "real" or practical course, which is always taken for this purpose, an examination must be passed in the following studies, which I will state in the order in which they are placed in the catalogue, namely: Christianity; the Swedish, German, English, and French languages; mathematics, through the first six books of Euclid, trigonometry, algebra, and arithmetic; chemistry, mineralogy, and botany; history, geography, and drawing. The other or classical course embraces the Latin, Greek, and Hebrew languages, in place of the German and English. It is important to notice here, too, that the pupil must always pass an examination in one of these courses before he can be admitted to either of the two universities.

The so-called "*examen till Konungens kansli*," or, more briefly, "*Kansli examen*," is the university examination most usually taken by persons intending to enter the civil service. It may, therefore, be entitled the civil-service examination. It includes a test of the person's knowledge in political economy, judicial encyclopedia, the law of nations, Swedish constitutional law, administrative law, the law on private rights and legal process. The examination is partly oral and partly in writing. The number of questions which must be answered in writing are four, namely, one in political economy, one in Swedish constitutional law, one in administrative law, and one in the law as to private rights. The text-book which is used on the law of nations is Heftler, "*das Europeische Völkerrecht*." The other text-books, except Mill on Political Economy, are by Swedish authors. The answers must be wholly improvised. About eight hours are allowed for each answer. In answering the questions the text of the law may be used, but not commentaries. The answer is required to be tolerably full. One must first pass the examination in writing before being admitted to the oral examination. The latter is public, occupies about eight hours, and can for the most part be considered strict, at least on the more important subjects. The examiners are the ordinary professors in the subjects embraced. There are no censors to watch the examination. The examiners themselves decide on the result of both the oral and written examination. Here it may be remarked that, at the Swedish universities, a professor's duty of instruction consists principally in public lectures, for which he receives no pay from the students. If the latter desire instruction beyond this they usually receive it at their own expense from some extraordinary instructor, who, according to the rules, is not an examiner.

Mr. Von Steyern, dispatching secretary, secretary-in-chief of the ecclesiastical department, (which includes the department of public instruction,) an officer of much experience and ability, who, at my request,

promptly furnished me with full information, in Swedish, in respect to these examinations and the civil service generally, states that it is considered the examiners have no interest to be unduly lenient in the examination of any student who has enjoyed their instruction, and that they are entirely impartial.

Here, again, it is to be observed that this "*kansli*" or civil-service examination is preceded at the university by another examination, entitled "preliminary examination," which is conducted orally by the ordinary instructors, and which usually requires a year's study on the part of a student after admission to the university before it can be passed. In this the student is examined in the following studies: Latin, French, politics, history, and political-social philosophy. In Latin, he is required to translate portions of Livy, Cicero, and Horace. In French he must evince a readiness to translate from Swedish into French; in history, a full knowledge of Geiyjer's Sweden especially, and a general view of universal modern history; in politics, the constitution and administration in the principal countries. The course in philosophy embraces the notes of the professor's lectures.

There are two other courses and two other kinds of examination, both in law, both at the university, and conducted in the same way as the civil-service examination before described, either of which, if passed, qualify a person for admission to the civil service, though they are intended more especially as tests for admission to the judicial service. The lightest of these, "*Examen till ratteyångguerken*," or examination for the administration of justice, embraces a test in the following studies: judicial encyclopedia, history of law, law of nations, Swedish constitutional law, the law on private rights, Swedish criminal law, process law, maritime law, and a part of the laws of administration. Where the subjects are the same, the text-books are identical with those for the civil-service course. There are, also, five questions to be answered in writing. A few months just previous to the higher law examination ("*Juriskandidat examen*") it is usual for the professor to hold a strict private examination in writing in each branch in which instruction has been given. In the civil-service examination a preponderance is given to constitutional law, administrative law, and political economy. It would seem that there is no trial of *précis* writing, nor particular test of general intelligence, nor are marks of merit used.

There are three grades in which an examination can be passed as to every subject: 1, praiseworthy; 2, approved with praise; 3, approved. The student who passes receives a certificate showing in which grade he passed. He also receives a general certificate showing the degree of knowledge he has exhibited on the whole, which certificate is graded like that in respect to separate subjects. The substance of all the certificates is included in the diploma which is finally issued. The grade in which a student passes gives him no particular preference or right to a better position in the public service. If a student fails to pass, there are no limitations as to his future attempts. He has notice certainly of the branches wherein he failed, but at any repeated trial he is examined in all other branches as well as the one in which he had failed.

The course of study for the civil-service examination usually occupies two years, and for legal examination two and a half to three years, exclusive in both cases of the time required to fit for the preliminary examination. Generally, the examination on graduating at the high school for admission to the university is taken at the age of nineteen to twenty years. So, including the year required before taking the so-

called preliminary examination, the student will generally be twenty-two to twenty-four years of age when he takes the civil-service examination and becomes appointed as a supernumerary in the civil service. And it is not till he has reached the age of about thirty-two years, as a general rule, that he becomes promoted to a fixed or "ordinary" position, at least in the central state departments, and then usually at the lowest grade in the service. For the positions of secretary, treasurer, chief clerk, notary, and register in the office of the county governor, of collector of the direct taxes, as well as those generally in the central departments and bureaus, one must have taken either the civil-service or the legal examination. These examinations were prescribed in 1863; but the change then introduced was mainly in introducing the examination in writing and giving additional weight to administrative and political branches in the civil-service examination; otherwise the tests for admission to the civil service have been substantially the same as now since the beginning of the present century. No further examination is required. There are no competitive examinations; nor are examinations repeated after a person has once been appointed in the service.

For admission to offices in the forest administration a person must have graduated at the Forest Institute; so, also, for admission to the office of surveyor of lands. To positions in the administrations of the railways and the telegraphs, special examinations are had as to knowledge peculiar to those branches. Women are employed to some extent in the telegraph and post offices; but there has been no instance where a woman has taken the civil service or the legal examination, though there is nothing to prevent their doing so.

The King has the right to waive either of the before-specified examinations in appointing any one to a subordinate position; but it is a right seldom exercised, and only when it is necessary to supply an urgent need in the working force of an office.

The knowledge required for the legal and civil-service examinations has, in later times, been considered here by many to be insufficient. The proposal has, therefore, been discussed of introducing a combined judicial and civil-service examination in place of those two, about corresponding to the present "*Juriskandidat examen*," (requiring a course of study about two years longer than the foregoing-described legal course.) In such case it is thought that it would probably be necessary that a lower examination should be provided for admission to such lower positions as can now be entered by taking the civil-service examination.

GRADES OF OFFICE.

The different grades in one of the state departments, below the minister or chief, are: 1, dispatching or chief secretary, ("*expeditions chef*,") who is responsible to the head of the department for the progress of business; 2, chiefs of bureau, one for every principal branch of business. For example, in the ecclesiastical department are four bureau chiefs, one for actual church matters, one for the universities and high schools, one for the common schools, and one for sanitary and poor matters; three office-secretaries, one as assistant to the dispatching secretary, and one to each chief of bureau. All of these of course have fixed or permanent places, and are known as "ordinary" appointees. Besides, there is in every bureau one or more "extraordinary" or supernumerary employés, called also "*amanuens*."

APPOINTMENT, PROMOTION, AND TENURE OF OFFICE.

To positions which, in § 35 of the constitution, title Form of Government, are classified as confidential, including that of dispatching-secretary and higher offices, appointments are made by the King in council on the proposal of that cabinet minister in whose department the office lies, and accordingly without direct and open application. As to other offices, the parties seeking them must apply in writing to the authority, either the King or a subordinate authority, in whose department they lie. The application must be signed by the applicant, and be accompanied by written certificates of service or of merit, showing the applicant's age, respectability, that he has passed one of the required examinations, the previous service, if any, he has had, and anything further that can have effect in securing the position. The statement as to previous service must be duly confirmed, either through the testimony of two reliable men, or by annexing the documents on which the information is based. When the King appoints to such a position there are designated, by the authority under whom the service nearest lies, three of the most deserving applicants, of whom the King in cabinet council appoints one; but he can in certain cases even appoint any of the applicants without such designation. Appointments are almost always made to the lowest grade, that of supernumerary. Neither in appointments nor promotions, as a general rule, do political or party considerations come in question or have effect. The constitution of Sweden expressly declares that "in all promotions ('befordringar') the King shall fix regard only on the applicants' merit and capacity, and not on their birth." This applies also to original appointments. The provision was adopted in 1809, in order to do away with the abuse which had grown up from the dictatorial epoch of Charles XII, of filling all offices with the nobility. Nevertheless, according to my observation, the fact that an applicant belongs to the nobility still gives him a decided preference in obtaining office, especially in the diplomatic service. But it is a matter which is gradually ceasing to have influence.

For a member of the legislative branch of the government, as such, to recommend or urge the appointment of persons in the civil service would be considered intrusive, and would have no weight, certainly, in excluding a more meritorious officer. Anything like "patronage" does not obtain.

For promotion to lower and less important positions, much regard is paid to *seniority;* but for the weightier positions, and especially for the most of those which in the thirty-fifth section of the constitution, title Form of Government, are described as places of confidence, promotions are never made according to seniority, but only according to ability and merit.

An official record is kept of all proceedings in cabinet council. When the King makes an appointment or promotion, there must be present at least three councilors of state beside an official reporter. The constitution also requires that the councilors of state shall express their opinion on the talents and merit of the aspirants. The keeping a record of cabinet proceedings and the holding of the ministers to a strict accountability are valuable constitutional safeguards. This part of the Swedish constitution, on the form of government, which was adopted in 1809, also provides that all subordinate officers and employés shall hold their positions during good behavior. They can only be removed after complaint, judicial trial, and judgment. They are suspended from duty as soon as complaint is duly made. On the other hand, the dispatching-

secretary, who is next to the chief of a department, and morally responsible to him for all that goes through the department, as well as higher officers (not including, of course, judicial officers,) in administrative service, can be removed at any time by the King; but such removals must occur in cabinet council, where all the ministers have opportunity to express their opinion on the subject.

It is very seldom that a subordinate officer is removed by judicial judgment, or even charged with lesser misdemeanor, notwithstanding the Riksdag appoints and pays its own special attorney-general (under the constitution) to see that persons in the public service fulfill their duties, and to accuse them before the courts of justice if they fail to do so.

While subordinate officers have the free enjoyment of their political convictions, and can express their opinions and vote against the government, it is never their practice to seek to propagate the political views of the government among the people. Such an attempt would be wholly antagonistic to Swedish customs, and would most assuredly have extremely slight prospects of success. Such attempt, whether for or against the government, would probably excite the same feeling that would be excited in our country if an officer of the regular Army or of the Navy should undertake to play the party politician. It is, therefore, considered here rather of slight importance to the government whether civil-service men are included among its political supporters or not.

In respect to higher officers, it is always the case that there are some who, while holding at the pleasure of the King, are, according to usage, so independent that they can and do, in their capacity as members of the Riksdag, frequently, if not habitually, oppose the party in power.

SALARIES.

In state departments the salaries are as follows, per annum: Dispatching-secretary, 7,000 crowns, ($1,876;) chief of bureau, 5,500 crowns; office secretary, 4,200 crowns. These salaries are, however, in general lower than those prescribed for similar positions, which have been more recently re-organized by the Riksdag; they will, therefore, possibly be increased at least for chiefs of bureaus. In the state treasurer's office, ("Stats Kontoret,") which was re-organized by the last Riksdag, salaries are fixed for different grades from 2,800 crowns in the lowest to 7,000 crowns in the highest, not including the president of the office. Supernumeraries scarcely receive, except in the state departments, higher pay per year than 1,000 crowns; and these small salaries, as well as those of ordinary or permanent employés in the lower grades, are only gained through the right to unite several employments at the same time in different branches of the service. For the purpose of comparison it may be useful to state what are some of the higher salaries. For example, that of the Swedish-Norwegian representative at London is $17,011 per annum, and the same for their representative at Paris. A cabinet minister who is the chief of a department, (except the minister of foreign affairs, whose pay is higher,) receives 17,000 crowns ($4,556) a year; a cabinet councilor, who is not the chief of a department, 12,000 crowns, ($3,216;) a president of the court of appeals, or of one of the "colleges," which latter corresponds to a board, such as a board of trade, board of health, &c., 10,000 crowns; a county governor 12,000 crowns, besides a residence. Salaries are paid quarterly, but the question has been raised as to their payment monthly.

Increase of pay for length of service, called here "age increase," has lately been introduced into the service, but as yet only in those branches which were re-organized by the Riksdag the present year. For the higher positions in these branches there is one increase of 600 crowns, to take effect after five years' service; for the lower positions two increases in each grade of 500 crowns each, the first after five and the second after ten years' service.

There is a practice, which is peculiar to the department of foreign affairs, of granting "expectance" pay to persons who have been recalled from the office of representative abroad, and who for the time being are out of diplomatic employment. The highest pay now received by any such person is 6,000 crowns per annum.

PENSIONS.

Officers of the civil service obtain a pension from the state when they have reached the age of seventy and served thirty years, (the supernumerary period always included,) and, if physically disabled, at sixty-five years of age, and after about forty years of service. The amount of pension is equal to the pay when the latter does not exceed 3,000 crowns per year, and is 80 per cent. of the pay when the pay exceeds that sum; provided, however, that no pension shall exceed 8,000 crowns, ($2,144.) In those branches of the service which were re-organized at the last Riksdag, pensions are fixed at two-thirds of the salary, or something over, and such probably will be the rule generally in future. No part of the pension is continued to the widow or heirs of the pensioner after his death. If a person before reaching the age of sixty-five becomes disqualified from duty by sickness, special application in order to obtain a pension must be made to the Riksdag, which is generally granted if made by the government. In such cases the pension is sometimes less than 80 per cent. of pay. All the pensioners are paid wholly by the state without any deduction from pay, or special contribution or extra tax of any kind from the officer or employé.

There is, however, a separate pension establishment for widows and children of persons in the service, to which every "ordinary" official is required to contribute a certain portion of his pay, 112 crowns being the highest contribution and 21 crowns the lowest. Officers can themselves obtain a pension from the fund where they quit the service at the age of fifty-five years; but as the highest pension of this sort is 1,600 crowns, the lowest 300 crowns, and as the use of the privilege excludes one from the benefit of a state pension, it is seldom availed of. In addition to the contributions of officials to this fund, the state annually appropriates 82,500 crowns.

HOURS OF WORK—DISCIPLINE.

In the dispatching-offices of the state departments, and in the central offices generally, the working-time is from four to six hours a day; but almost every service-man is in the habit, besides, of employing some part of the day on public work at his home. From six to eight hours of work a day are not, therefore, unusual, except in the lower grades. There is generally a vacation allowed of one month or, in certain cases, six weeks in a year. No special means, such as a conduct-record and the like, are resorted to in order to ascertain the amount and character of an officer's work. In general the chief of an office, with the aid of his nearest subordinate, endeavors to keep informed of every separate officer's activity

so closely, that he can form a proper judgment of his efficiency and merit. It has been stated that it is the duty of the Riksdag's attorney-general to take notice of any misconduct in office; besides, the constitution requires the Riksdag at the close of each session to elect a committee of revisers, who must, during the recess, personally investigate any case of misconduct or neglect of duty that may come to their notice in any department, administration, or office in the kingdom, and make report to the next session.

RANK OF THE SERVICE AS A PROFESSION—EFFICIENCY.

There is no doubt but the high respectability and rank of the civil service as a profession in Sweden tend much to induce people to enter it. Otherwise, young men would not be content to take such a long course of study, and then linger for eight or ten years as a supernumerary, as is now the case, at pay scarcely enough for the most economical support of one person, before being appointed, say at the age of thirty-two, to a permanent position. Ten to twenty years back there were more applicants than could be appointed; but in consequence of the higher pay received of late years in commercial and industrial occupations, and the increasing respectability of such employments, there has been and still is less competition for positions in the civil service. Under present circumstances, a person who had taken the requisite examination, and who was competent in respect to moral character and health, would be directly received into the service as a supernumerary. As a rule, of course, no more are accepted than can be made useful in the ordinary business. From all I can learn, however, the service is somewhat overcrowded with supernumeraries; and the opinion seems to be rather general that it would be an improvement to appoint in any one office only such number as could be fully employed therein and adequately paid. Doubtless such a change will be made in the re-organizations which are going on. As yet the state has found no difficulty in filling its "ordinary" or fixed positions with competent men, notwithstanding the greater pecuniary advantages which are to be derived from commercial and business pursuits. It can hardly be said, as yet, that the latter have their pick of talent. While the honorable rank of the service is an important attraction, the certainty of pay and of support in old age constitute, of course, even greater attractions. It is a very old saying in Sweden that "The government's cakes are thin, but they are sure." We have seen that at the present day they are not so very thin.

One might suppose that the security and independence of a subordinate officer in not being removable, except after judicial judgment, might render him less obedient. Mr. Von Steyern expresses the opinion, however, that this security has not shown itself to have any injurious influence on the efficiency of officers, and that it is a necessary counterpoise to the light pay in lower grades. He states that the hope of promotion to higher and better-paid positions is always a powerful motive to continued exertion—a stimulus not only to the officer's zeal and industry, but to continued efforts for the improvement of his capacity and opportunities. He adds: "The Swedish civil-service corps ought on every ground to have good testimonial for zeal, fidelity, and worth." If the results of administration are a test of the merit of the civil service of a country, it would seem that this opinion is in the main correct.

Finally, if further proof were needed of the importance which is attached to this subject by Swedish statesmen, it would be found in the

fact that a civil-service commission has been in session here for two or three years, and at work re-organizing and reforming the service according to the principles heretofore mentioned. In the office of state treasurer it reduced the number of employés from thirty-five to eighteen! It is now at work in the administration of prisons.

* * * * * * *

I have, &c.,

C. C. ANDREWS.

NOTE FOR THE DEPARTMENT.—Information which I applied for in July about the civil service of Norway has not, now the 11th of October, been received. I therefore send my dispatch without it. But I hope to receive the information so as to be able to send it off in course of a week or ten days.*

Respectfully,

C. C. ANDREWS.

STOCKHOLM, *October* 11.

SWITZERLAND.

No. 302.

Mr. Rublee to Mr. Fish.

No. 241.] LEGATION OF THE UNITED STATES,
Berne, September 28, 1875. (Received October 14.)

SIR: In my dispatch No. 230, of the 2d of July last, relating to the controversy which had arisen between the federal authorities and the government of the canton of Berne, on the subject of the continued enforcement of the decree of the cantonal government expelling certain Roman Catholic curés from the districts of the Bernese Jura, I informed you that the period originally fixed by the Federal Council for the revocation of the decree in question had been extended, in order to allow the canton an opportunity to adopt further legislation, with a view to the repression of the popular disturbances, which, it was apprehended, might follow the return of the remittent ecclesiastics. At the recent session of the grand council of the canton of Berne, a measure was accordingly adopted having this object in view. It is called a law for the punishment of disturbances of religious peace.

As the passage of this act is an incident of considerable importance in the history of the controversy going on in Switzerland between the civil power and the Roman Catholic clergy, and the measure itself a somewhat extraordinary piece of legislation to have originated in a republic where freedom of speech and religious toleration have long been cherished, I subjoin a summary of the proposed law.

Section 1 provides that whoever shall incite the members of one religous sect (confession) or religious society to hostility against the members of another, in such a manner as to jeopardize the public peace, shall be punished by a fine of not more than 1,000 francs or by imprisonment for not more than one year.

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* Not received—December 1, 1876.

Section 2 declares that any ecclesiastic or other religious functionary who, in performing, or on the occasion of performing, religious or pastoral services, shall make political or civil affairs, the institutions or decrees of the state, the subject of a publication or discussion, in such a manner as to jeopardize the public peace or order, shall be punished by a fine of not more than 1,000 francs and by imprisonment for not more than one year.

Section 3 prohibits ecclesiastics, or other religious functionaries, not regularly installed in a parish of a church recognized by the state, from the exercise of spiritual functions in a religious society, and from any activity in schools, whether public or private: 1. If such ecclesiastics belong to a religious order prohibited by the state; 2. If it be shown that they have openly resisted the regulations and decrees of the state, so long as such resistance is continued.

Section 4 provides that, for the performance of any episcopal act within the territory of the canton by a foreign church dignitary, the authorization of the *conseil d'etat* is required, which may only be given for a definitely-limited period and for the performance of specific acts, (for example, confirmations,) and cannot be delegated. Violations of this section are punishable by a fine of not more than 2,000 francs or by imprisonment for not more than two years.

Section 5 prohibits religious processions or other religious ceremonies except in the churches, chapels, houses of prayer, (*Bethauser*, a designation for places of worship belonging to certain sects not recognized by the state,) private buildings, and houses containing the dead, with these exceptions: 1, services in the field as authorized by the military laws or orders of the military authorities; 2, funerals, (under regulations to be hereafter announced;) 3, religious discourses, prayers, and singing having no tendency to endanger public order. Violations of this section are punishable by a fine not exceeding 200 francs, or by imprisonment not exceeding sixty days.

Section 6 authorizes the police to dismiss meetings or gatherings of religious societies at which, whether by the participants therein or by third persons, the public order is disturbed, or anything is done subversive of morals. Offenders under this section will be punished by a fine not exceeding 200 francs, or by imprisonment for not more than sixty days.

Section 7 relates to the trial of offenders under the law, and creates an exceptional jurisdiction by denying a trial by jury, and providing that the accused shall be tried before the president of the district court in the first instance, and before the chamber of police of the court of appeals in the second instance. It is further provided that imprisonment under this law shall not be regarded as infamous.

The second and the fifth sections in particular have been severely criticised, and have aroused serious apprehensions among the Protestants, who see therein a menace to their own liberties as well as to those of the Roman Catholics. Nevertheless, the measure was ultimately adopted in the grand council by a vote of 118 to 26. Before becoming a law it must receive the sanction of the people of the canton. A vote will be taken upon it on the 31st of next month; at present, however, no one doubts but that it will be approved by a large majority.

One may regret to witness in the legislation of a Swiss canton the arbitrary and intolerant spirit which seems to characterize this measure without forgetting the provocations on the part of the Roman Catholic clergy which have given rise to it.

In the canton of Geneva several measures have been adopted within

the past two months breathing the same spirit. There, not only have drocessions and other religious manifestations in the streets and highways been interdicted, but fines or imprisonment are prescribed, not merely for those with their accomplices who occasion disorder, but for those who give provocation for disorder at religious meetings held in a private domain, (*dans une propriété privée.*) The wearing of an ecclesiastical dress in the streets has been forbidden, while in the absence of any official definition, much doubt is expressed in regard to what constitutes an ecclesiastical dress. The several corporations of sisters of charity and of *petites sœurs des pauvres* of the canton have been also dissolved, with no other effect than to cause their members to re-organize just across the French boundary, but very near the city of Geneva, where they carry on their work, whether it be of charity or of proselytism, with added zeal and consideration in view of their recent trials.

I have, &c.,

HORACE RUBLEE.

No. 303.

Mr. Rublee to Mr. Fish.

No. 284.] LEGATION OF THE UNITED STATES,
Berne, June 16, 1876. (Received July 3.)

SIR: I have in previous dispatches given, from time to time, brief accounts of the rise and progress of what is popularly known as the Old Catholic movement in Switzerland. It therefore seems proper that I should now inform you that the organization of the Christian Catholic, or National Catholic Church, of Switzerland, was completed by the election of a bishop on the 7th instant. This step had been previously authorized by the federal government. The synod, which was held at Olten, was composed of fifty-four ecclesiastics and one hundred and five laymen. Professor Herzog, curé of the Christian Catholic church of the city of Berne, was chosen bishop, receiving 117 out of 158 votes. At first he positively declined the election, declaring that he felt himself wanting in the calmness and moderation of spirit which befitted such a position; that he was a partisan, and that a bishop ought not to be a partisan. By this remark he alluded, as I understand, to the active support and sympathy which he has in times past extended to the civil authorities in their conflicts with the Roman Catholic clergy. Among a minority of the synod there was, it is reported, a feeling that some one less susceptible to political influences should be chosen. However, after the choice had been made by so decisive a vote, the minority joined with the majority in the endeavor to persuade Professor Herzog to accept the position. Time was given him for reflection, and, upon a subsequent day, it was announced that he had acceded to the general wish. The declaration of principles adopted by the synod pronounces confession as not obligatory upon members of the church, allowing individuals to consult their own consciences and inclinations in respect thereto; permits the marriage of the clergy, and expresses approval of the effort making by the Old Catholics of Germany to bring about a union between the Old Catholic, the Anglican, and the Greek Churches, promising to aid as far as possible in promoting its success.

A report was made to the synod in regard to the present condition of the Christian Catholic Church in Switzerland. From this it appears

that there are at present fifty-five communes belonging to the church, and seventeen associations or unions, the whole numbering 73,380 souls.

The proceedings do not seem to have excited much interest outside of the church organization.

I have, &c.,

HORACE RUBLEE.

No. 304.

Mr. Rublee to Mr. Fish.

No. 296.] LEGATION OF THE UNITED STATES,
Berne, August 31, 1876. (Received September 18.)

SIR: I have the honor to inclose herewith two copies of the federal law enacted in July last, but only printed within the past week, relative to the acquisition and renunciation of Swiss citizenship, with a translation of the same.

Hitherto the subject has been regulated only by cantonal laws. This law, by providing a definite and uniform mode for the renunciation of Swiss citizenship, will tend to put an end to what has seemed to me a great injustice sometimes practiced by Swiss communes toward citizens of the United States of Swiss origin. This has consisted in refusing to put them in possession of property inherited or belonging to them here, on the ground that they were still Swiss citizens, and had acquired a foreign citizenship in contravention of some cantonal or communal ordinance.

The law will go into effect on the 21st of November next, unless a demand is made for its submission to the popular vote, which is not probable.

I am, &c.,

HORACE RUBLEE.

[Inclosure.—Translation.]

Federal law concerning the acquisition and the renunciation of Swiss citizenship, enacted July 3, 1876.

The Swiss federal assembly, in execution of article 44 of the federal constitution, and in consideration of a message from the federal council, dated June 2, 1876, decrees:

I.—OF SWISS NATURALIZATION.

ARTICLE 1. A foreigner who wishes to acquire Swiss citizenship has, for that purpose, to apply to the federal council for authorization to be received as a citizen of a canton or of a commune. The authorization of the federal council must be also demanded, through the cantonal government, in case of a naturalization accorded gratuitously to a foreigner.

ARTICLE 2. The federal council will give the authorization only to foreigners (1) that have had their ordinary domiciles in Switzerland during the two preceding years; (2) whose relations to their native country are such that there is no reason to apprehend that their admission to Swiss citizenship would involve any prejudice to the Swiss Confederation.

ARTICLE 3. The naturalization extends to the wife and to the minor children of the applicant, in so far as no formal exceptions are made in regard to the latter, in view of article 2, paragraph 2.

ARTICLE 4. The grant of a cantonal or communal naturalization without the previous approval of federal council is void. On the other hand, Swiss citizenship is only acquired when the authorization of the federal council is followed by the cantonal or communal naturalization according to the laws of a canton. The authorization from

the federal council becomes void if within two years from the date of its issue no use has been made of it.

ARTICLE 5. Persons who, in addition to Swiss citizenship, are citizens of a foreign country are not entitled to the privileges and the protection accorded to Swiss citizens during their residence in such foreign state.

II.—RENUNCIATION OF SWISS CITIZENSHIP.

ARTICLE 6. A swiss citizen may renounce his citizenship if (*a*) he has no domicile within Switzerland; (*b*) he is enjoying fully all civil rights according to the laws of the country where he resides; (*c*) he has already acquired citizenship in another country or the assurance of its being granted for himself, his wife, and minor children, in accordance with the last paragraph of article 8.

ARTICLE 7. The declaration of renunciation is to be submitted in writing and accompanied by the required statements to the cantonal government, which will notify the respective communal authorities, in order to inform such parties as are interested, and a term of four weeks is fixed for presenting objections. The federal tribunal, according to articles 61–63 of the law in regard to the organization of the federal judiciary administration of 27th June, 1874, will decide in such cases where the right of renunciation is objected to.

ARTICLE 8. If the conditions prescribed in article 6 are fulfilled, and if no objections have been presented, or the protests made have been judicially overruled, then the authorities authorized for that purpose by cantonal law will pronounce the discharge from the cantonal and communal citizenship. This discharge includes the forfeiture of Swiss citizenship, and enters into effect from the date of its issue and delivery to the applicant. It also extends to the wife and minor children when they are domiciled or living together, and if no special exceptions were made in regard to them.

ARTICLE 9. The widow or the divorced wife of a Swiss citizen who has renounced his nationality, and such children of a former Swiss citizen as were minors at the time of such renunciation, may request from the federal council to be re-admitted as Swiss citizens. This privilege, however, becomes void for the children at the expiration of ten years after their attaining majority; for the widow or divorced wife ten years after the dissolution of the marriage.

The federal council will accord the re-admission if the conditions are fulfilled which are prescribed for naturalization by article 2, page 2, of this law, and if the applicants reside in Switzerland.

The re-admission to Swiss citizenship will enter into effect from the date and issue of the respective document; and the former cantonal or communal citizenship is lawfully re-acquired by it.

The cantonal legislatures can facilitate the re-admission, however, only under the provisions of article 2, page 2, of this law.

III.—FINAL DISPOSITIONS.

ARTICLE 10. All provisions of federal or cantonal legislation conflicting with this law are abrogated.

The federal council, in accordance with the provisions of the federal law of June 17, 1874, concerning the popular vote on federal laws and decrees, is charged with the publication of this law and with the promulgation of its entry into force. * * *

TURKISH EMPIRE.

OTTOMAN PORTE.

No. 305.

Mr. Maynard to Mr. Fish.

No. 68.] LEGATION OF THE UNITED STATES,
Constantinople, May 30, 1876. (Received June 22.)

SIR: I have the honor to communicate as an addition, if not a corollary, to my dispatches No. 66, dated May 12, 1876, and No. 67, dated May 20, 1876, a capital change in the government of the Sublime Porte.

Early this morning it was announced by public criers and salvos of

artillery that His Imperial Majesty the Sultan Abdul-Aziz had been dethroned and Murad Effendi proclaimed Emperor of Turkey.

So quietly had the change been wrought during the hours when men slept that the announcement was a very general and complete surprise. There has been little excitement beyond what so startling intelligence would occasion; no disturbance whatever. Many are evidently gratified; none appear to be angry.

During the morning an Ottoman official from the council of ministers called at the legation, and, in a few prearranged words, informed me that His Majesty the Sultan Murad the Fifth had ascended the throne of Turkey. I inclose a copy of the official dispatch sent from the Sublime Porte to the several diplomatic representatives.

The transfer of power and allegiance appears to be fully established; the new monarch reigns *de facto* and I suppose *de jure*. * * * *

I have, &c.,

HORACE MAYNARD.

[Inclosure.—Translation.]

In obedience to the unanimous wish of the whole people, Abdul-Aziz Khan has been dethroned to-day, and His Majesty Sultan Murad the Fifth, heir-presumptive of the imperial throne, has been proclaimed Emperor of Turkey.

THE GRAND VEZIER.

No. 306.

Mr. Maynard to Mr. Fish.

No. 71.] LEGATION OF THE UNITED STATES,
Constantinople, June 13, 1876. (Received July 20.)

SIR: I have the honor to inclose, for the purpose of giving you a complete history of the almost-forgotten Salonica affair, two dispatches to the legation from Mr. Lazzaro, the United States consular agent, with translations.

So far as I can learn from all the information at my command, he has borne himself during this distressing period with great forbearance, and has exhibited a very becoming spirit. I think you will agree with me that these communications place his candor and his judgment in a very favorable light.

Rachid Pacha, the minister of foreign affairs, expressed himself to me quite satisfied that the imputation made upon him by the report of the governor-general of Salonica was unwarranted, and promised so to telegraph to the minister in Washington, with instructions to inform the Department of State.

I am, &c.,

HORACE MAYNARD.

[Inclosure 1 in No. 71.—Translation.]

Mr. Lazzaro to Mr. Maynard, May 25, 1876.

UNITED STATES CONSULAR AGENCY,
Salonica, May 25, 1876.

SIR: I have the honor to acknowledge the receipt of your dispatch dated May 18, by which you do me the honor of approving the promptness with which I furnished you, by dispatch and telegrams, with all the particulars I could get of the unhappy affair in which the connection of my family happened to be as unexpected as disagree-

able. I deeply regret that my name, in my capacity as American consular agent, being unjustly attached to an affair in which I took no part has occasioned you uneasiness and trouble. I thank you for being satisfied with the explanations I have already had the honor to make of my conduct in this affair, and which I hope is such as to acquit me of any direct or indirect participation in it, and at the same time authorize you to refute any slanderous attack against me by the authorities and others.

I thank you also for your kind attention in informing the minister of foreign affairs that a delegate on the part of the legation would be sent here in case of an investigation.

I cherish the hope that after the steps taken by you to give the Porte the necessary explanations of my conduct, it will not take place; but in that contingency, such a support from you will be of great advantage to me. I ought, however, to inform you that a proposal to put me under investigation was made in the commission, and abandoned on the testimony and assurances in my favor of Mr. Blunt, the British consul.

The Bulgarian girl who caused the mischief at Salonica is a native of the village of Bogdantza. According to the inclosed document, a copy of the statement by the head men of Bogdantza, this girl is shown to be only twelve years old; nevertheless, more precise information makes her some years more. According to the same document it appears that this girl was carried off by a band of Turkish women while she went for water at the village fountain. Her light reputation and the suspicions of the villagers that she had had intimate relations with a young Turk of the village, lead me to think that she was in connivance with her ravishers in order to be carried off. According to the statement of her family she was lost for three days, and was concealed in several Turkish houses, where, under the influence exercised over her by her new friends, she decided to become Mahommedan.

On the 5th of May, having already adopted the *feradjé* and the *yashmak*, and accompanied by two negresses and the imam of the village, she left for the depot of Carasuli, and took the train to Salonica, where, it is said, she was going to declare her new faith before the local authorities. The mother, on her part, after wandering three days from house to house in search of her daughter and not finding her, took the same route to go to Salonica and make a complaint to the archbishop.

Chance gave the unhappy woman what she had sought in vain—she found her daughter again and saw her in a car surrounded by her traveling companions. Her first movement was to address herself to the employés of the railway company, explaining to them with deep sorrow the carrying off of her daughter, and begging them to help recover her. Some hot-headed young men took up her case and promised to assist her.

Mr. George Abbot, brother of Miss Abbot, my son's governess, was unhappily of the number.

Mr. Abbot, by virtue of the law of the country which forbids the presence of men in the car with Turkish women, obliged the imam to go into another compartment and placed the mother near her daughter. At sight of her the daughter is said to have exhibited emotion, and, expressing regrets for what she had done, to have thrown herself on the neck of her mother.

That scene stimulated the zeal of those who had promised to save her. Arrived at Salonica about 6 o'clock, they left the car under the escort of two policemen who were waiting for them at the station. At the same time the mother, aided by the young employés, called again for assistance. That day being the fête of St. George, many promenaders of every nationality were at the station.

Several persons among them answered voluntarily to the appeal, and taking hold of the girl they tore off her *feradjé* and *yashmak*. The Turks who accompanied her tried to resist, and a little affray took place. The police force on service at the station interfered to separate them, and succeeded in taking possession of the girl. But while on their way to the governor's residence (conak) they were assaulted again by the Christians, who took possession of the girl once more, and finding my carriage on the way, stopped it and forced her into it, in company with another person. Two young girls ten years of age and an old family servant-woman were in the carriage, having asked my mother's permission to take this opportunity to visit the station.

My coachman, whether from stupidity or excess of misdirected zeal, brought the girl to the consulate after she was forced into my carriage. At the consulate she was joined afterward by her mother and an old uncle. Meanwhile my family was absent from home. My mother was the first to return. Seeing her, the coachman approached her and said, "Madam, I have done something, but I do not know if well or not. I have brought to the consulate a young Bulgarian girl that some Christians at the station rescued from the hands of the Turks, and, forcing me to stop, put into my master's carriage."

In my former dispatch I have already had the honor to say that my carriage was at the station by my orders, given four days before to my coachman, when I left him to take the train to Topsin.

My mother found the girl, the uncle, and the mother in the consulate. They all fell

at her feet and begged permission to remain there. My mother, before taking decided action, waited for the return of my brother Nicholas, who came soon after.

The mother of the girl, distracted by sorrow and despair at the thought that her child would soon be torn from her family and lost forever, moved my mother and my brother by her cries and entreaties. My brother Nicholas, surprised and doubtful how to act in a matter which did not concern him, yielded to the prayers of the mother and daughter and consented to keep them at the house Friday night, advising my mother to send them away the next day. The mother and her daughter were accommodated in the dining-room, which is on the ground-floor, where they spent the night together. Next morning the two women left the house, not by the door of the consulate, but by a little door leading to the court-yard of the church of St. Charalambo. In this way my family were relieved of two guests whom a mere accident forced upon their hospitality, and whom they had to care for as an act of pure humanity, and not to create disturbance nor to accomplish a political scheme, as some badly-informed parties here and elsewhere would infer. Early the next day my brother went out to his office. Toward 1 o'clock in the afternoon some one from the house informed him of the visit of Petropoulo Effendi, together with another official of the Porte, who came on the part of the governor-general to take the girl. My brother went home and told those gentlemen that he had given orders the day before for the girl to be sent away; that she had left, and he did not know where she could now be found. As soon as they left, my brother, attaching no importance to an occurrence common enough in the country, left also, and went to the Frank quarter to christen the child of one of his acquaintances.

While he was absent, Mr. Alfred Abbot came to visit my mother, and being already acquainted with the affair asked her if the girl was still with her. My mother answered "no."

Toward 3 o'clock Mr. Abbot came again, and showing the second letter of his brother, asked my mother where the girl could be found. My mother replied that according to the report in circulation she must be in the house of Mr. Avgerinos. With that he went away, and met with the bearer of Mr. Henry Abbot's first letter, delayed in the transmission, addressed to my brother Nicholas, the copy of which I had the honor to send you with my first report. He hurried to the house of Mr. Avgerinos, and on his way met the cavass of the British consulate, who was going to our house with a note from Mr. Blunt, asking for the girl, who he still supposed was there. Mr. Abbot took the note addressed to my brother, and said to the cavass that the girl was not at Mr. Lazzaro's house; that he knew where she was, and if he would follow him he would deliver her to him. The cavass followed Mr. Abbot as far as his own house. Here he stopped the cavass and the ten policemen with him, and turning the little street by his house came back directly with the girl, and told the cavass to take her in the greatest haste to the mosque. The cavass taking her along as fast as he could, was going toward the mosque, when, not far from my consulate, he met an enraged crowd coming with curses and fierce demonstrations against the consulate, swearing its destruction in order to get possession of her. The appearance of the girl, although too late to save the life of my unhappy colleagues, came in time to abate in some measure the rage of these furies and to turn them from their purpose, and in this way to prevent the destruction of my family and many others.

As to the pretended marriage of the girl with a young Turk, according to all information I can gather, I can assure you that it is without foundation. This young girl, of a very equivocal reputation, is accused of having had relations of an intimate nature with more than one person. It is almost certain, although not proved, that one of her objects in going to Salonica was to enter the harem of Emin Effendi. The presence of that individual in the same train with her, as well as many other circumstances, corroborate this supposition.

This Emin Effendi, though the richest and most influential Turk of the country, does not enjoy a good reputation, and it is he that public opinion points out as being the principal instigator of the mischief which followed the abduction of the girl. As to the rumor of her pregnant condition, I heard it also, but I am not in condition to furnish any definite information on the subject.

She is just now at Mehemed Pasha's, a man of a great integrity in the country, who received her at his house only after a formal order from the authorities to offer her an asylum.

You will allow me to assure you once more, in the most formal manner, that not only this young girl was never in my service, as is pretended, but that neither myself nor any member of my family had the slightest knowledge of this affair. I am firmly convinced that it was not a made-up affair on either side, and that neither the Christians nor the Turks at the moment dreamed of the monstrous consequences which followed. Certainly the Christians were wrong in pushing their religious zeal to the point of resorting to illegal and forcible means to take the girl; but at another moment such an event would probably pass unnoticed.

Unhappily it found the Turks in a great excitement. On one side the hopeless con-

dition of their government, on the other their continual reverses and forced inactivity in the Herzegovina, seem to have irritated them and to have aroused in them the monstrous religious fanaticism which pushed them to the odious assassination of the two consuls.

In conclusion, it will be superfluous for me to show you all the prejudices and the great dangers that this unhappy affair continues to cause me, my family, and my interests. These dangers and prejudices will not be averted until you, in view of all the explanations I have had the honor to furnish, shall do me the honor of coming to my support, and by the powerful influence of our legation refute officially and unofficially all the false and scandalous reports as unjustly as unworthily circulated against me and the consular agency which I have the honor to represent.

I have, &c.,

P. H. LAZZARO,
Consular Agent.

[Inclosure 2 in No. 71.—Translation.]

UNITED STATES CONSULAR AGENCY, SALONICA.

Witness:

We, the undersigned, contzanbasides and agades of the place Bogdantza, declare, with the present document, that on the 21st of April a daughter of Delhio Giota, aged of twelve years, was carried off at 8 o'clock on Wednesday, whilst she was going to take water from the fountain. The persons that had taken the girl were the wives of Suleiman Tsaoussi; those of Chussein, son of Ismail Aga; of Ibrahim Yatzatzi, and of Tasar Akbamba, and many other women, who carried the girl by force away from her mother, and are harboring her to this day by turns in different Turkish houses, using every influence and emulation to induce her to embrace Mahometanism. To this fact we, the undersigned, contzambassides and agades, give our evidence.

Bogdantza, April 25, 1876, (O. S.)

TANA PETRE.
TANE ENGUE.
DEHHIO TANTZI.
NICOLAS PAPA CHRISTOPH.
MITRO STOÏCO.
CHRISTO STOÏCO.
DE'LHIO STOÏL.
THEODORUS MITRI.
COLIO PROGIO.
BASIL MITRI.
TANO MANEL.

No. 307.

Mr. Maynard to Mr. Fish.

No. 72.] LEGATION OF THE UNITED STATES,
Constantinople, June 17, 1876. (Received July 13.)

SIR: I have the honor to add to the list of grave events which have recently attracted attention to this capital. Early yesterday morning it was reported that several of the imperial ministers had been assassinated the night previous. As usual in such cases the reports were vague and conflicting and much exaggerated.

Later information established the death of Rachid Pacha, minister of foreign affairs, and Hussein Avni Pacha, minister of war, and the serious wounding of Ahmed Kaiserli Pacha, minister of the marine, by Hassan Bey, a young army officer, a Circassian, and a graduate of the military school. He appears to have been a favorite of the late Sultan, and was appointed aide-de-camp of his oldest son, Prince Youssouf Izzedin Effendi, commander of the imperial guard. A sister of his, one of the Sultan's wives and the mother of one of his sons, had died during the week. He had been promoted to the rank of adjutant-major and ordered to join his army corps at Bagdad, and was to have left yesterday.

It is said he was greatly exasperated, and threatened vengeance on

the minister of war; that he pursued him to the konak (city residence) of Midhat Pacha, in Stamboul, where the ministers were assembled in council; that, entering by stratagem and armed with revolvers and a dagger, he fell upon his victims, and killed outright no less than five persons and wounded some others before he was overpowered. He was executed to-day.

Such is the account which has been permitted quasi-officially to reach the public, and which represents the tragedy as an act solely of private revenge, devoid entirely of political significance.

The ministry of foreign affairs, made vacant by the death of Rachid Pacha, is filled by his excellency Safvet Pacha, who retired from the same office on the 7th of November last, (see my dispatch No. 35, dated November 8, 1875,) and has since then filled in succession the ministry of public instruction and the ministry of justice.

His highness Hussein Avni Pacha is succeeded in the ministry of war by the generalissimo, Abdul Kerim Pacha; and Khalil Cherif Pacha, minister without portfolio, and a nephew by marriage of the Khedive, is made minister of justice.

The high ceremonial of investing the new Sultan with the sword of Othman has, for various reasons assigned, been postponed from time to time, and no day for it has even yet been announced.

I have, &c.,

HORACE MAYNARD.

No. 308.

Mr. Maynard to Mr. Fish.

No. 86.] LEGATION OF THE UNITED STATES,
Constantinople, July 20, 1876. (Received September 14.)

SIR: It seems proper for a full and complete history of the recent unhappy occurrences in Salonica to transmit my latest dispatches from the United States consular agent there. The first is official, dated June 21, 1876, some three weeks after the accession of the new Sultan. The second and third are marked personal, and I transcribe only those portions which are of a public nature.

Appearances are very unfavorable. There is evidently a very bad spirit abroad. Especially is this manifest ever since England has seemed to be at variance with the other European powers. While what are known as the guaranteeing powers were agreed in their eastern policy, a very different tone of feeling prevailed throughout the empire. Whatever may have been the intent in sending into these waters the enormous British fleet now in Besika Bay, it is undoubtedly a great moral support to the sentiment at this moment prevailing in Turkey.

Ever since the revolution outlined in my dispatches Nos. 66 and 67, of May last, the Turkish armies have been constantly and rapidly recruited, and that in the prevailing name of Islam. The recruits are gathered very largely from Asia, and from the most fanatical portion of the Mussulman population; and, to show the sort of appeals made to them, I inclose a copy of the translation of a vizierial proclamation hung up in the streets of Aintab, furnished by the United States consular agent of that city.

I have, &c.,

HORACE MAYNARD.

[Inclsure.]

Dispatch from Mr. Lazzaro to Mr. Maynard.

No. 68.] VICE-CONSULATE OF THE UNITED STATES,
Salonica, June 21, 1876.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch dated June 3, 1876, No. 84, by the contents of which I feel happy to see that your excellency is convinced of my being entirely clear of all responsibility for the tragedy at Salonica, and has promised to write to that effect to the Department of State.

The commission which had arrived from Constantinople in order to investigate into the case of the murder of the two consuls and execute punishment upon the instigators and perpetrators of the atrocious deed, was composed of Bachan Effendi, imperial commissioner; Eshrif Pasha, present governor-general of Salonica; Mr. Robert and Mr. Gillett, delegates of the French and German consulates; and one of the dragomans of the German legation, Br. Blunt; and Mr. Foscarini on the part of the consular body. This commission sat on duty about thirty-three days. The investigations, being privately carried on, have not been communicated to the consular corps. A list of some of the judgments and condemnations which were notified to the consular corps by Mr. Foscarini I had the honor to send to your excellency in a previous dispatch. A few days before the departure of the commission for the capital, it had been re-enforced by a large body of military officers of high rank, who were sent from Constantinople in order to hold a court-martial and judge the conduct of Rufet Pasha, ex-governor-general of Salonica, and the other military officers that had been on duty during the perpetration of the crime. After a great deal of disputing and squabbling between the commission and the court-martial, the latter sentenced the ex-governor-general to one year's suspension from office, and loss of pay for *fautes graves*. The ex-chief of police to degradation and one year's imprisonment for *delit*. Two other officers were sentenced for forty-five days' arrest and one year's suspension from office. Considering the immense responsibility that weighed upon all these functionaries, and the entire want of action that characterized the conduct of the ex-governor-general and the rest of the officers, not to speak of the grave faults that public opinion justly attributes to them, the sentence of the court-martial was lenient to the extreme. The commission itself, finding it quite disproportional to what it ought to have been, proposed its reversion. The Porte, having been consulted on the subject, decided upon the removal of the whole court to Constantinople, where it is to be hoped a final and satisfactory arrangement will be obtained. Yesterday, the 20th instant, all the prisoners condemned by the commission, some to exile and others to penal servitude of years or for life, according to the culpability of each individual, were sent to Vidin, from where they will be distributed to their respective destinations. On the whole, the action of the commission appears to have fallen short in the realization of its object, which, according to public opinion, ought to have been the infliction of a more severe punishment upon the ex-governor-general and the rest of the officials in whose presence the atrocious deed was perpetrated, and who did nothing to avert it, or protect the unfortunate victims.

From the twelve persons condemned to death six have met with capital punishment, and the other six are awaiting in prison here the final decision from Constantinople respecting their destiny.

The news of the dethronement of the Sultan Aziz and the succession of Sultan Murad to the vacant throne was joyfully received in this place by the whole population. The state of the government and affairs in general all over the country had come to such a pass that any change would have been most welcome. The enthusiasm occasioned by this event was great at first, and high hopes were entertained by all classes of the inhabitants respecting the future reforms so much desired and needed through the country. This enthusiasm has now partly abated, and varied are the opinions with which the different races that are interested in them view the constitution that is to contain them. The Christians, depressed and weighed down by the oppression of the late government, can scarcely realize the hope of seeing a change so beneficial to their condition, while the Turks, still in bad humor and discontented with the actual state of their affairs and with a pending war over their heads, can scarcely be expected to view in a favorable light the reforms that the force of circumstances and Europe is wresting from them. Great disorders continue to take place in the interior, owing to the passage of the recruits and the number of freebooters with whom the country is now swarming. Brigandage has increased, and highway robberies and assassinations are of daily occurrence in the interior.

The accounts from Bulgaria state that very great has been the loss of life and property in that unfortunate province during the suppression of the revolts, and terrible are the atrocities said to have been perpetrated by a reckless and barbarous soldiery on the defenseless women and children. Some of these soldiers, returning from there to Uskub, are said to have driven before them a herd of young girls, whom they were

selling in the towns for ten piasters apiece. Twenty-four other Bulgarian girls were also brought as slaves into a village in the district of Salonica. The authorities, however, having received notice of this, have, I believe, taken some measures to have the girls restored. The authorities everywhere in the interior appear to have received orders to disarm the Christians, while the Turks are allowad to bear arms freely, even in the very towns. The disarming of the Christian population on the part of the Turks may be a precautionary measure, but to enforce it in the way it is done just now, and before the government itself is able to execute its laws or guarantee the safety of the people, it cannot be considered otherwise but unjustifiable and unfair. The poor peasantry, terrified by exaggerated reports of massacres and wrongs daily received by their oppressive masters, are in a pitiable state of anxiety and disquietude. Helpless in their condition, and justly distrustful in the protection they ought to receive from the authorities, they feel themselves at the mercy of a discontented and excited Mahometan population that might at any time crush them without pity.

In conclusion, from all I hear and see, I fear there is a great deal of ill-humor and excitement among the Turks, especially in the interior, and if the new government does not take prompt and decisive measures to put down this evident ill-disposition on the part of the Turks toward the Christians, much misery and even bloodshed will be the consequence.

* * * * * * *

I have, &c.,

P. H. LAZZARO,
United States Consular Agent.

No. 309.

Mr. Maynard to Mr. Fish.

No. 88.] LEGATION OF THE UNITED STATES,
Constantinople, July 27, 1876. (Received September 11.)

SIR: I have had the honor from time to time to communicate such information of the condition of the Ottoman government as was accessible and of general interest. In the absence of statistics, and to a great extent of regular official reports, it is difficult to arrive at facts.

A favorite object of the late Sultan was to increase and strengthen the navy. He caused to be built many iron-clad ships, the largest and most powerful known in the present state of naval architecture. So long as the interest was regularly and promptly paid upon the public debt no complaint was made of this policy; indeed, it was rather commended as enlightened, far-seeing, and progressive; but when the payment of interest ceased it was denounced as extravagance and folly. He always kept several large ships in commission and anchored in front of his palace. By creating his young son an officer of high rank in the navy he evidently intended to show still further his interest in the service; but at his downfall, so far from sustaining him, both the navy and the army had been converted by the ministers into instruments for his destruction.

I had occasion some time since to inquire into the strength of the Ottoman navy, but received nothing very satisfactory. A publication has just been made in the city, evidently from official sources, and is probably not far from the truth. I append a copy, both in English and in French.

I am, &c.,

HORACE MAYNARD.

[Inclosure.]

THE TURKISH NAVY.

[From the Daily Levant Herald, July 29, 1876.]

The imperial Ottoman navy consists at the present time of some 15 iron-clads, 5 wooden frigates, 11 wooden corvettes, 2 gun-vessels, and 11 gunboats, 7 of which are armor-plated. In addition to these vessels, which may be considered as the efficient portion of the fighting part of the navy, there are about 7 large transports, 5 of them paddle-wheel steamers and the other 2 screw-ships; six fast dispatch-vessel paddle-wheel steamers and 2 imperial yachts, which, on occasion, are also employed upon the public service. Besides the ships thus enumerated there are 3 old wooden line-of-battle ships and a few small schooners in commission, as well as 4 very smart schooner-rigged screw-steamers for the revenue-service. The official navy-list represents a much greater force than is here represented, as the names of a number of old wooden hulks are still retained, and also those of a few steamers, which from the length of service they have seen are in anything but an efficient condition and of little use as either transports or fighting-craft. But our object being to enable our readers to form a correct idea as to the strength and value of the imperial Ottoman navy, these have been purposely left out of the consideration.

To commence, then, with the iron-clad fleet, which in point of numbers, strength of construction and armament, is, after that of England, one of the most powerful in the world. Of the 15 iron-clads of which it is composed, 4, namely, the Mahmoudieh, Orchanitch, Osmanieh, and Azizieh, are broadside frigates, with 4-inch armor-plates, and carry each of them 16 heavy Armstrong guns, 14 on the main deck, 150-pounders, and 2 revolving guns on the upper deck, one, a 300-pounder, at the stern. (These vessels are each of 4,221 tons, and their horse-power 900.) Then there are 4 of another class, box-battery ships, as they are sometimes called, built after a design by Mr. Reed, C. B., in which the attempt is made to secure the advantages of a turret-ship by giving them a certain amount of all-round fire, while retaining the stability of a broadside craft. The names of these vessels are as follows: Fethi Bulend, (Great Victory,) Mouani Zaffir, Avni Illah, (Gift of God), and the Mukadenieh Khair, (Happy Beginning.) The Fethi Bulend and Mukadenieh Khair are sister ships, having been constructed upon the same lines, the first-named in England by the Thames Iron-Works Company, and the other at the imperial arsenal at the Golden Horn. They are both very formidable craft, being protected with 9-inch armor-plating, and carrying 4 Armstrong 12½-ton guns in a central battery, with the ports so arranged as to admit of fore and aft fire. Their tonnage is 1601.6, and the horse-power of their engines 500. The other two, the Mouani Zaffir and Avni Illah, are of the same type, but their armor-plating is not quite so thick, nor their guns so heavy. They are not quite so large either, their tonnage being only 1,399, and their horse-power 400.

The next on the list are the four iron-clads originally intended for the khedive of Egypt. These vessels, named respectively the Arsari Shefket, the Nedjmi Shefket, the Arsari Tefyk, and the Ijlalieh, form a separate class again to the others, as they carry their armament in broadside ports in a central battery protected against fore and aft fire by armor-plated bulk-heads. The two first are sister ships; they each carry 4 guns, 200-pounders, on the main deck, and a heavy gun mounted on a revolving platform on the upper. They were constructed at Trieste in 1870; the thickness of their armor-plating is some 6¼ inches, tonnage 1,583, and horse-power 350. The Arsari Tefyk is a much larger vessel than the last-named craft, her tonnage being 3,143 and horse-power 750. She carries 8 guns also in her broadside ports of the same caliber as the others, and though the thickness of her armor is about the same, she is a much finer vessel. The Ijlalieh differs again from the others in size and horse-power, though her armament is the same as that of the two first-mentioned vessels of this class, as is also the case with the armor-plating. This ship as well as the Arsari Tefyk is of French construction; her tonnage is 1,650, and the horse-power of her engines 300. Two turret-vessels and one more large iron-clad frigate complete the list of sea-going iron-clads.

The Louthfi Djelil and Hiftzi Rahmin are twin screw-ships, carrying each of them 4 guns, 150-pounder Armstrongs, in two separate revolving turrets, protected by 7-inch armor-plating; their tonnage is 1,751 and horse-power 300.

The Messoudieh, the last on the list and the latest addition to the iron-clad fleet, is one of the most formidable ships afloat, being a finer vessel even than the British iron-clad Hercules, the flag-ship of the Mediterranean fleet. She carries 14 guns, 12½ tons, Woolwich pattern, (the most approved type in England,) and the thickness of her defensive armor is 12 inches. The tonnage of the Messoudieh is 5,349, and the horse-power of her magnificent engines 1,200. She was built by the Thames Iron-Works Company, and was only launched about twelve months ago. In addition to the advantage this ship possesses in having such a powerful broadside armament, by special arrangement in her construction the end-ports on each side admit of those guns being trained almost in a line with the keel.

The seven iron-clad gunboats which were specially built for service on the Danube are named as follows: Fethi Islam, (Moslem Victory,) Buyourdelan, (Heart-piercer,) Semandereh, Scodra, Podgoritza, Isber, (Lion,) and Saffeh, (Sword.) These craft in general draw about 5½ feet of water, and are armed with two light Armstrong guns. They are protected with a belt of 3½-inch armor, and are fitted with 80 horse-power engines. The first five on the list are already in the Danube, stationed at Widdin, and placed under the command of Kiritlee Hussein Pasha, an active officer of the imperial navy. The other two were launched but a short time ago at the arsenal up the Golden Horn, and are of a much improved type. They are each fitted with a revolving turret, in which are mounted two Krupp guns, 80-pounders, and are propelled by twin screws, worked by separate engines. At the present moment they are lying at a buoy off Tophaneh, receiving their stores preparatory to leaving for the Danube, which they will do with all dispatch. All the vessels which have been mentioned up to the present are in commission, and of the 15 large iron-clads 10 are either cruising with Hobart Pasha, or are in station at different ports of the Levant, there being but five at Constantinople at the present moment.

To turn now to the wooden vessels which have their value as cruisers, guard-ships, or transports, the names of the frigates are as follows: Selimieh, of 50 guns, 600 horse-power, and 4,717 tons; the Ertogrul, of 50 guns, 600 horse-power, and 2,344 tons; the Hundevendeghair, of 50 guns, 600 horse-power, and 2,897 tons; the Mukbiri Soroor, of 21 guns, 450 horse-power, and 1,477 tons. These four ships are in commission, and cruising about in the Levant, the last named being the training-ship for the naval cadets. The Nasul Aziz, the last on the list of the frigates, has just been thoroughly repaired, and is now being fitted for sea; she is pierced for 50 guns; her tonnage is 1,512, and horse-power 450. The armament of these vessels consists principally of smooth-bore guns, 42-pounders, with here and there a 68, but on the upper deck they all carry very heavy revolving guns of the latest pattern. The corvettes are named, respectively, Sinope, Edirneh, Mussafir, Lebnan, Mansourah, Broussa, Ismir, Iskenderia, Outarit, Meyzee, and Zouave. They are all pierced either for 12 or 14 guns; their tonnage ranges from 750 to 800, and the horse-power of their engines is 160. Their armament, like that of the frigates, consists chiefly of smooth-bore guns of small caliber, with a heavy rifled revolving gun on the forecastle. The vessels are all absent from Constantinople on service, four of them being stationed in the Adriatic, one at Trebizond, in the Black Sea, two in the Red Sea, two up the Persian gulf, and the others in the Levant. The two gun-vessels—the Sedkul Bahar and Beirut—each carry 5 four-guns, 1 heavy and the others of light caliber, and are generally employed on service in the Red Sea. The four gun-boats, called, respectively, the Akya, Shefket, Sunneh, and Varna, are fitted with 60 horse-power engines, and carry each of them light guns. Of the three old wooden line-of-battle ships, one—the Shadieh—is employed as the gunnery-ship, and is stationed up the Gulf of Ismid; one—the Fetigeh—is the depot at Klet, and the other—the Peki Zeffier—is the receiving-ship at the Golden Horn, having taken the place of the old Mahmondieh, which has been since broken up.

The strength of the *personnel* is set down officially as 1,921 officers of all ranks and 15,000 men, in which are included 3,500 marines. Besides these men, however, there are the *redifs*, who have already served their time in the navy, and whose number may be safely set down as another 15,000. It cannot be said that the crews of the iron-clads have had all the training that is necessary to make them good and efficient seamen, yet still a good deal has been done in the way of gunnery drill, and attempts have been made of late by changing the crews of the cadet training-frigate after each voyage, to afford as many of these men as possible the opportunity of acquiring some experience at sea. A gunnery-ship was established some six years ago, and the services of a very efficient instructor obtained from the British government. Nearly the whole of the men and all the subordinate officers have passed through a regular course of drill on board of the said ship, and a number of the most intelligent among the latter have been specially trained as gunnery instructors, so that, in imitation of the British navy, each of the iron-clads has now its gunnery officer charged with the duty of keeping the men up to the mark in their gun-drill. Foreign officers, who at different times have visited the iron-clad fleet in the Bosphorus, have been particularly struck with the apparent order on board, the general neatness all round, and the manner in which the men went through their drill. Their performance with the heavy guns has been particularly praised, and there is but little doubt that with more target practice they would make splendid artillerists. Something has been done in the way of firing at a target, sufficient at least to familiarize the men with the proper manner of using the novel projectiles of the present day, and the Turk is by nature a good marksman. In the early part of last summer, also, a flying squadron was sent to sea under the command of Hassan Pasha with orders to cruise under sail in the Mediterranean, visiting particularly the ports of the African coast, Gibraltar, Marseilles, Malta, and the Adriatic. The squadron consisted of the following corvettes: Edirné, Musseffir, Ismir, and Mansourah, and was afterward joined by the school-frigate Mukbir. Starting from Crete, the ports of Bengazi, Tripoli, and Tunis were each touched at in succession, the

voyage being always performed under sail, and advantage taken of favorable weather to perform a few simple maneuvers and to accustom the officers to signaling at sea. While at Tunis it became necessary, on account of the disturbances in Herzegovina and Bosnia, to send the squadron to Klek, so that the cruise was prematurely broken up, the muhbir returning to Constantinople, and the others soon afterward separating upon special service.

Great efforts have been made also at the naval college to impart as much professional knowledge to the cadets as possible; for, owing to the scarcity of good technical works in their own language, the cadets after leaving that establishment labor under great difficulty with regard to their after education as naval officers. With this view the pupils receive instruction on torpedoes, naval-prize law, and naval tactics. Instructors from the British navy, in addition to a large staff of Turkish professors, have been for some considerable time in the employ of the imperial Ottoman government, and quite a number of smart young officers have been sent from the naval college within the last few years to join the fleet. With regard to the fleet-maneuvering and naval tactics in general, a step has been taken in the right direction by sending an iron-clad squadron to cruise in the Levant, for it is of the utmost importance that the captains of the iron-clads should have the opportunity of acquiring more experience in the handling of such enormous masses in motion than is to be picked up in passing from the Golden Horn to the Bosphorus, or in making a voyage simply from one port to another.

No. 310.

Mr. Maynard to Mr. Fish.

No. 89.] UNITED STATES LEGATION,
Constantinople, August 10, 1876. (Received September 27.)

SIR: Excepting a few incidental allusions, I have, up to this time, said nothing in my dispatches about the war in the northwestern provinces. Our Government has no agents there, and I had no means at command to procure trustworthy information. The struggle has now assumed proportions and arisen to prime importance in Turkish affairs.

During last summer disquiet appeared in the Herzegovina, confined at first, as it seemed, to a few score of uneasy spirits, whose movements, it was believed, could be checked by the police and stopped altogether by the personal appeals of influential men.

Essad Pacha, then grand vizier, was laboring to reduce the public expenditures and to equalize the budget, and, it is alleged, gave too little heed to the unwelcome reports from the disaffected district. Meantime the revolt spread; the disaffected peasants—for the movement originated with this class—were joined by many others, and their operations began to assume the character of war.

How far the insurrection was occasioned by a sense of intolerable oppression, and how far by a spirit of lawlessness and impatience of all governmental authority, is not quite clear. I am inclined to think it was set on foot by a few restless and daring spirits, who soon rallied an overburdened and discontented population. A belief has been entertained that it was the development of a scheme, in which many participated, fostered, if not instigated, by the intrigues of Russia, usually credited with any disaster to the Ottoman Empire. I am aware, however, of no evidence which either implicates Russia or sustains the theory of preconcert among the neighboring peoples.

There is no doubt the insurgents found much sympathy. From the last of June, the date of the small beginning, their operations steadily increased, and by the middle of August they had extended into Bosnia and assumed a more serious character. They were assisted with men and money, and joined by bands from Dalmatia and Montenegro. And the sympathy was not limited to the conterminous population of cognate

race. Statesmen and philanthropists in countries remote thought they perceived an issue affecting the human family.

The Ottoman government early appreciated the gravity of the situation, and appealed to the great European powers, both through their embassies at foreign courts and the foreign embassies near the Sublime Porte.

The representatives of the great powers united in a plan of sending into the malcontent district an imperial commission, who should receive with kindness any legitimate demands and redress well-founded complaints, their own delegates meantime to seek out the insurgents and make them understand they could expect no help from any foreign power, nor from the neighboring principalities. Pursuant to this plan, the Sublime Porte sent his excellency Server Pacha in the capacity of imperial commissioner; Italy, France, Russia, Austria, Germany, and England severally sent their consuls, with instructions identical in character although differing in words.

It is proper to add that the Earl of Derby consented to this step with reluctance, and only at the urgent solicitation of the Porte. He doubted its expediency, as but offering an inducement to insurrection, and probably opening the way to further diplomatic interference in the internal affairs of the empire. In his opinion, it was better that the Turkish government should rely on their own resources to suppress the insurrection, and should deal with it as a local outbreak, and not give it international importance by appealing for support to other powers. The plan failed, because the insurgents had no faith in the Turks. They did not seek independence. They asked only to remain subjects of the Sultan, with reformed laws and a proper and just administration of them. But they were not content to lay down their arms upon mere promises of reform, for they said they had had the same promises before and had been deceived. What they demanded was an armistice for consultation, and a European intervention to guarantee the reforms which might be adopted. This the Turks would not grant. And the effort of the great powers came to naught.

Any benefit that might have resulted was defeated by an ill-advised attack of Turkish troops upon a body of the insurgents assembled to confer with the consuls. On the 26th of August, 1875, a change was made in the grand vizierate by the resignation of Essad Pacha. This change was followed by a very important financial policy, but no very marked difference was observed in the treatment of affairs in Bosnia and the Herzegovina. His excellency Server Pacha, the imperial commissioner, issued a conciliatory proclamation, and followed it with well-timed instructions to the civil authorities of the *vilayet*. Soon after the issuance of the proclamation, and evidently in consequence of it, the commissioner telegraphed to the grand vizier that the inhabitants of seventeen villages had come and made their submission, and, through the care of the authorities, had been installed in their respective houses. The return to their homes of these people who had taken an active part in the revolt he justly characterized as a happy beginning. But within ten days after this auspicious event the same people were attacked in their homes by Bashi-bazouks; several of the Christians were killed, and the rest, including the whole population of the *nahiyet*, (district,) fled into Dalmatia. Of course after this the commissioner's influence was a nullity, and the fatal distrust of all promises by the Turkish government intensified.

An imperial *iradeh* (decree) ordering certain much-desired reforms bears date October 2, 1875, and was followed on the next day by an

official publication announcing the reforms so decreed. A copy of it in French, with an English translation, is inclosed. It illustrates the anxiety of the Sublime Porte to propitiate the so-called guaranteeing powers, parties to the treaty of Paris, that copies of this publication were telegraphed to the Ottoman embassadors to these several powers and by them communicated to the respective governments. Orders from the grand vizier were issued to the governors-general of the several provinces to make the reforms effective. Candor requires me to express my decided belief that these efforts at reform on the part of the government were sincere and made in good faith. I cannot doubt it for a moment. But they were defeated by a deep-seated popular distrust and by another hostile sentiment, hereafter to be noticed, before which they have been compelled to succumb.

Two months wore away. The condition of things in Bosnia and the Herzegovina being in nothing the better, but constantly growing worse, an imperial firman appeared, granting to all the subjects of the Sultan, without distinction, new immunities and new favors in addition to those previously conceded. * * * This high declaration excited more intensely the hostile sentiment just alluded to—the religious zeal of the fanatical Mussulmans, especially the *olema* or doctors of law and divinity. These important characters were neither moderate nor cautious in expressing dissatisfaction, and many were arrested and thrown into prison, with what subsequent fate I am unable to learn.

Persons familiar with the history of the Sublime Porte at once observed that these two instruments, the iradeh and the firman, added very little, if anything, to the *hatlisherif* of November 3, 1839, (Législation Ottoman, 2, part 7,) and the *hatti-humayoum* of February 18, 1856, (*ib.*, 14,) by which were guaranteed to all Ottoman subjects alike: 1, equality before the law; 2, religious liberty; 3, justice without sale, denial, or delay; 4, local autonomy; 5, security from oppressive taxation. Those measures of reform had remained so nearly unaccomplished that many doubted the practicability of giving effect to the recent benevolent manifestoes, conspicuously, and unfortunately for the restoration of peace, the insurgents of Bosnia and the Herzegovina.

The continuing struggle could not be otherwise than annoying to the adjacent provinces of Servia and Montenegro and Bulgaria, and especially to Austria-Hungary. Count Andrassy, the Austro-Hungarian minister of foreign affairs, embodied the views of his government in a diplomatic note bearing date December 30, 1875.

* * * * * * *

Five measures were proposed for the pacification of the disaffected provinces:

1. Religious liberty, full and entire.
2. Abolition of the farming of taxes.
3. A law to guarantee that the direct taxation of Bosnia and the Herzogovina should be employed for the immediate interests of the provinces.
4. A special commission, composed of an equal number of Mussulmans and Christians, to superintend the execution of the reforms proclaimed and proposed.
5. The amelioration of the condition of the rural population.

After a correspondence of one month between the great powers, Count Zichy, the Austro-Hungarian ambassador, accompanied by Baron Werther, the German ambassador, and General Ignatiew, the Russian ambassador, formally communicated the note to his excellency Rachid Pasha, minister of foreign affairs. This was January 31, 1876. Very soon after, say within two or three days, the representatives of all the

six powers, had, by order of their governments, spoken to the minister in support of Count Andrassy's proposal.

As on the previous occasion, when the consuls were sent with the imperial commissioner on a mission of pacification, Her British Majesty's government united with the other powers reluctantly and only after being requested by the Porte not to hold aloof from this concerted action. It was thought better that the Porte should deal with the insurgents without any kind of foreign intervention; otherwise insurrection would be encouraged and further diplomatic interference with the internal affairs of Turkey become probable.

Like the previous attempt through the mediation of the consuls, this also failed; not, I am persuaded, from bad faith or remissness on the part of the Sublime Porte. My belief is that the enlightened statesmen then in the imperial ministry saw clearly the evils out of which the insurrection had grown, and were sincere and determined in their efforts to reform them. But the same two insurmountable difficulties confronted them: the want of confidence in their promises, on the one hand, and the hostile Mussulman sentiment on the other. The same difficulties, I may remark just here, still remain, and will always remain, unless the temper and character of the people shall be radically changed. The Mussulmans regard themselves as the conquerors of the country, and so entitled to rule it. The Christians assert an earlier and superior title to life, liberty, and the pursuit of happiness. How to let the former exercise their saber-earned authority and the latter enjoy their heaven-descended rights is now, and is likely to be for a great while, the insolvable problem.

Of what follows I must speak, to some extent, historically and from common fame. Seeing the second failure, the Emperors of Russia and Austria-Hungary met in Berlin, and with the Emperor of Germany agreed upon a third measure for the pacification of Turkey. This consisted, it is understood, in a guarantee by the great powers of the several reforms already proclaimed but not reduced into practice. Her British Majesty's government and that of France as well, seem to have hesitated. The Sublime Porte was said to be unwilling to make the concession implied in the new proposals. While the subject was under consideration occurred the massacre at Salonica, the 6th of May, of the French and German consuls. It was a crisis. The accidental spark kindled a conflagration. * * * *

Turkish affairs had now assumed an entirely new face. Russia was supposed, in popular estimation at least, to have sustained a humiliating defeat, and Great Britain to have achieved a corresponding triumph. The former was in various ways insulted by the Turkish populace and the latter applauded. Nothing came of the Berlin compromise, and this attempt of the foreign powers, like the former two, was a complete failure. At the time of the dethronement of the late Sultan, and for some weeks afterward, much was heard of reforms, and a constitution, and a national assembly. His excellency Midhat Pasha, president of the council of ministers, was understood to be laboring earnestly for their achievement, and the work was supposed to engage the assiduous attention of the Divan. Whatever efforts may have been made, and however sincere, they had the ineradicable defect of a hostile popular sentiment. This is embodied in a document of which what purports to be the substance has come into my hand. Being satisfied of its authenticity, I think proper to inclose a copy to illustrate, as it undoubtedly does, the Mussulman view of the situation. This is the substance of the diplomatic history of the insurrection.

The military history has been an inconclusive struggle in which the Turks have constantly claimed the advantage; but which so far from coming to an end has gradually become more and more serious.

The hostilities in the Herzogovina, which a year ago seemed manageable by the police alone, extended, as I have shown, into Bosnia, and during the spring they reached Bulgaria, Montenegro, and Servia.

The operations in the field may be summarized as follows: In Bulgaria the insurrection which appeared the 1st of May was an inconsiderable affair, a local outbreak, and promptly suppressed, with circumstances of cruelty which have made it one of the most melancholy paragraphs in the annals of the world. A more specific narrative is reserved for a future dispatch. In Servia the advantage in arms has been with the Turks. In Bosnia and the Herzogovina the battle seems to hang in even scale, while in Montenegro the insurgents have had the best of it.

The Porte seems to have adopted the policy early suggested by the Earl of Derby, and is putting forth its energies unaided to extinguish the revolt, and has postponed the much talked of reforms until after the termination of armed hostilities, when affairs will probably be allowed to run in the old grooves, worn, it may be, a little deeper than before. Except an occasional word for humanity, I have remained an inactive looker-on.

I have, &c.,

HORACE MAYNARD.

[Inclosure.—Translation.]

Copy of a letter addressed to His Highness Midhat Pasha, in the beginning of the month of August, 1876.

HIGHNESS: At the council when the constitution and the national assembly were proposed, Zia Bey thought to support the proposition by quoting a passage from the Koran: "Do no evil, but always seek the good."

It is but proper, we think, to substitute for that quotation the following passage: "Be brothers in the same race." We will quote still another, which says: "He who sees one part only of the Koran, and not the other, deserves misery in this life and punishment in the other."

We see no motive for requiring a constitution or a national assembly, and we shall not in any manner admit such an institution. We have subdued the Christians, and conquered their territory by the power of the sword, and we are unwilling to divide with them the administration of the country, and to let them participate in the direction of the affairs of the government.

The equality of the Christians with the Turks has been decreed. This is a decree of the Sultan, a decree the subject of which admits much discussion, into which we will not go; but as to dividing the empire with the Christians, this cannot be done. We must peremptorily declare it.

Other nations, as England, Russia, and France, do not permit their Mussulman, Tartar, Hindoo, and Arabic subjects to participate in the affairs of the government. What others do not do, and are not compelled to do, we should not do, and no person, nor any government in the world, can oblige us to do it.

If our affairs are in a bad condition, God, who has conducted us, will relieve us of our embarrassments, as he has done on other occasions, in his kindness and power.

And if the closing of the harbor of Kleck prevents us from giving aid to our troops in Herzegovina and Bosnia, we will find another route to furnish it to them.

We are like a ship on the waves during a storm; she must go toward her real harbor, and not, through fear, seek refuge in a port other than that to which she is bound.

No. 311.

Mr. Maynard to Mr. Fish.

No. 91.] LEGATION OF THE UNITED STATES,
Constantinople, September 1, 1876. (Received October 5.)

SIR: I have the honor to inform you that yesterday there was another change on the imperial throne.

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At daybreak there was active military preparation in the street leading from the palace usually occupied by the Sultan to Stamboul, and passing the legation. Soon it was whispered there was to be a new Sultan, and in a few minutes Hamid Effendi, in a carriage followed by a retinue, drove rapidly toward the seraglio.

At noon the ships in the harbor were decorated and salvos of artillery announced the new sovereign.

Soon after sunset, Vekil Effendi, subdirector of the archives in the ministry of foreign affairs, called at the legation and presented to me in person a note from the minister of foreign affairs, and sat until I had opened and read it. The note conveys intelligence of the change and the reason for it, with a request that it be recognized by our Government. * * * * * * *

The late Sultan, Murad V, had been on the throne exactly three months, but had never been invested with the sword of Othman, a ceremony of significancy similar to the coronation usual in some other countries. Various reasons have been assigned for the delay, the generally received opinion being that His Imperial Majesty's mental condition rendered him unfit for an occasion of such solemnity. This opinion is warranted by the note of his excellency Safvet Pasha received last evening.

In my dispatch No. 67, dated May 20, 1876, referring to the feeling of the softas toward the deceased Sultan, Abdul-Aziz, I mentioned a belief entertained by them that he had provoked his destiny by visiting the Paris Exposition of 1867 and setting his foot upon Christian soil, and added: "The same disastrous fate impends Murad Effendi, the heir apparent, who accompanied his uncle, the Sultan, to Paris. The hope of the reformers is Hamid Effendi." When the revolution broke out which dethroned Abdul-Aziz, I could not resist the conviction that it would be completed only by the elevation of Hamid. Everything which occurred subsequently only strengthened it. Murad was placed on the throne temporarily, because he was the next in the line of the succession, and to meet in public estimation the requirements of the Moslem law, but with no intention that he should enjoy more than a temporary occupation. The question naturally arises, what is the supreme power which makes and unmakes sultans without resistance? Undoubtedly the military power. Formerly this power resided with the janizaries, and they wielded it at times with a high hand. But half a century ago the great Sultan Mahmond, by a consummate strategem and the aid of a separate military force, annihilated the janizaries, and he and his two sons after him had rest from that source of disquietude. Recently the softas, for the accomplishment of their ends, gained control of the military power, by personal association with the soldiers, by enlisting themselves into the ranks, and especially by securing the aid of some of the boldest and most sagacious leaders. The war in the province offered a pretext for sending away any troops well-inclined toward the sultan, and, when the blow was struck, he was powerless to avert it.

The fetvah, or authoritative sanction of the Shirkh-ul-Islam, though indispensable according to Moslem law, you will readily understand to be the least difficult part in the scheme.

The new Sultan is the second son of the late Sultan Abdul-Medjid, the nephew of Abdul-Aziz, and the brother of Murad V, and after him the oldest living male member of the reigning house of Othman. He was born in September, 1842, and is now 34 years old. Little seems to be known of him, except that he is reported to be a person of great determination and a fanatical Mussulman.

As soon as I receive the proper information I shall direct the dragoman to ask an audience of the new Sultan, and to tender him in my name, on the part of the President, suitable congratulations.

The Sultan Murad V, I believe, received none of the representatives of the foreign powers, and, though I informed the minister of foreign affairs that I had the President's letter of credence, which I awaited His Majesty's pleasure to deliver, no audience was granted for that purpose, and the letter remains in my hands. I presume you will transmit a similar instrument addressed to his successor.

I am, &c.,

HORACE MAYNARD.

[Inclosure.—Translation.]

Safvet Pacha to Mr. Maynard.

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,
August 31, 1876.

SIR: The grievous malady which afflicted the Sultan Murad Khan during the first day following his accession, and which since that time has only grown worse, renders it manifestly impossible for him to continue to hold the reins of the empire.

In consequence the throne has been declared vacant, in accordance with the fetvah issued by his highness the Shirkh-ul-Islam, and, by virtue of the laws which regulate the right of sovereignty in the empire, His Majesty the Sultan Abd-ul-Hamid II, the heir presumptive to the imperial throne, has to-day been proclaimed emperor of Turkey.

I make it my duty to promptly notify you of the accesson of his Imperial Majesty the Sultan Abd-ul-Hamid III to the throne of his ancestors, and I reque t you to inform the Government of the United States of America, and at the same time to transmit to it the sentiments of sincere friendship of my august master.

Accept, sir, the assurance of my high consideration.

SAFVET.

No. 312.

Mr. Maynard to Mr. Fish.

No. 94.] LEGATION OF THE UNITED STATES,
Constantinople, September 13, 1876. (Received October 12.)

SIR: I have the honor to inform you that on Thursday last, the 7th instant, occurred the grand inaugural ceremony of girding the new Sultan with the imperial sword. The act of investiture appears to have been a simple affair, performed by a high religious official from Koniah, (the ancient Iconium,) hereditary to this function, in presence of but few, and they of the faithful, to the exclusion of all non-Mussulmans, and within the little mosque of Eyoub on the Golden Horn, just beyond the old walls of Stamboul. From this point the Sultan, now emperor *de*

jure as well as *de facto*, rode in the procession, entering the city by the Adrianople gate, the same, according to tradition, entered originally by his conquering ancestor, and following his course quite through the city to the seraglio. The way on both sides was lined by a countless multitude: men, women, and children, of all ages and conditions. Handsome accommodations were provided by the ministry of foreign affairs for the Diplomatic Corps. * * *

The inaugural *hatt* was read with the usual solemnities at the Sublime Porte on the 10th, Sunday last. An official translation appeared in the papers last evening, of which a copy is inclosed.

It will be observed that the former ministry is retained, indicating that for the present, at least, public affairs will keep in the accustomed channel.

I am, &c.,

HORACE MAYNARD.

[Inclosure.]

[From the Daily Levant Herald of September 12, 1876.]

THE IMPERIAL "HATT."

The following is the text of the inaugural address of the new Sultan's reign, read at the Porte on Sunday last, of which we gave the chief points in our impression of yesterday:

MY ILLUSTRIOUS VIZIER, MEHEMET RUSHDI PASHA: My beloved brother Sultan Murad V having, by the will of Providence, had sovereign power and the khalifate withdrawn from him, I have ascended the throne of my ancestors in conformity with the prescriptions of Ottoman law.

Considering your known experience, integrity, and zeal, and your long acquaintance with state affairs, I confirm you in the post of grand vizier and president of the council of ministers, and I maintain all the members of the cabinet and the other state functionaries in their respective posts. In placing my full and entire confidence in God, I firmly hope that all the ministers and public functionaries of the empire will aid and co-operate with me in carrying my intentions into execution. Those intentions have exclusively in view the consolidation and glory of my empire and the complete enjoyment, by all my subjects, without distinction, of freedom, of the benefits which result from public tranquillity and the good and even-handed administration of justice.

All the world knows that the present situation of the Ottoman Empire is critical. The multifarious causes which have brought about this sad state of things all spring chiefly from one source, namely, the insufficient and inequitable execution of the laws, based upon the prescriptions of the sheri, (the public and sacred law,) as also the fluctuating diversity and want of uniformity in the administration of the affairs of the country. Irregularities and illegalities have crept into the administration for some years past. Mistrust has taken possession of the public mind on the subject of our finances, and the failure of our credit has been the consequence. The working of the tribunals has been defective, and they have not succeeded in insuring the rights of the public. Our industry, commerce, agriculture, and all the elements which contribute to the prosperity of a people have lacked development, although our country, as all the world admits and recognizes, is well placed for the enjoyment of these advantages. All that has been attempted hitherto for the prosperity of the nation and for individual liberty, for the tranquillity and well-being of all our subjects, natives and foreigners, without exception; all the endeavors hitherto made to accomplish these ends have not been crowned with success; and this has chiefly arisen from frequent changes in the administration and the failure to follow out steadily a uniform system. This general regrettable result, in fine, is traceable to the fact that the laws and regulations of the country have not been adhered to in letter or in spirit in a stable and persistent manner.

The great object to be aimed at is, therefore, to adopt measures for placing the laws and regulations of the country upon bases which shall inspire confidence in their execution. For this purpose it is indispensable to proceed to the establishment of a general council, or national assembly, (the original Turkish expression is *medjiliss oumoumi*,) whose acts will inspire every confidence in the nation, and will be in harmony with the customs, aptitudes, and capabilities of the populations of the empire. The mission and duty of this council will be to guarantee, without exception, the faithful execution of

the existing laws or of those which shall be promulgated in conformity with the provisions of the *sheri*, in connection with the real and legitimate wants of the country and its inhabitants, as also to control the equilibrium of the revenue and expenditures of the empire.

The council of ministers is called upon to devote itself to a thorough consideration of this important question, and to submit to me the result of its deliberations.

Another impediment to the good execution of the laws and regulations has arisen out of the facility with which public functions are often confided to incompetent hands, and from the fact of public servants and employés being subject to frequent changes, unjustified on legitimate grounds, which entails very serious inconvenience upon the state and the transaction of public affairs. Henceforward every public function and employment will constitute a special career. To employ in the service of the state capable and competent persons; not to allow of any dismissal or transfer without valid cause; to establish ministerial responsibility, as well as the graduated responsibility of all public functionaries of every rank, each in what concerns his own duties: this is the invariable rule which it is advisable to adopt.

The material and moral progress which all the world is at one in acknowledging in European nations has been accomplished, thanks to the diffusion of public instruction, science, and the fine arts. Now as my subjects of all classes have, I am happy to declare, by their intelligence and natural capacity, special aptitudes for progress, and as the propagation of education constitutes in my eyes a pressing and vital question, you will consider without delay the best means of insuring this important result, by raising the aggregate amount allotted to public instruction in the budget in a sufficient proportion and as far as possible.

Moreover, immediate reform must be effected in the provinces—administrative, financial, and judicial reform—in order to create throughout the provinces a really normal state of things, and one in conformity with the bases adopted for the central organization.

To the disturbances which broke out last year in the Herzegovina and Bosnia, at the instigation of evil-intentioned people, the rebellion of Servia has been since superadded. Considering that the blood spilt on one side and the other is that of sons of a common country, I am profoundly afflicted at the continuation of this state of things. It behooves you, therefore, to take the most effectual measures for putting an end to so deplorable a situation.

I confirm all the treaties concluded with friendly powers. While maintaining their faithful execution, you will endeavor to draw still closer the amicable relations which we entertain with these powers.

Such are, in substance, my wishes, such my intentions! May the Almighty deign to crown our efforts with success!

Given on Sunday, the 23d day of the month of Shaban, 1293, (September 10, 1876.)

No. 313.

Mr. Schuyler to Mr. Campbell.

No. 13.] UNITED STATES CONSULATE-GENERAL,
Constantinople, September 28, 1876. (Received October 21.)

SIR: I have the honor to inclose you an interesting and valuable paper on the productions and trade of the district of Philippopolis, prepared, at my request, by Mr. John E. Gueshoff, of Philippopolis.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure.]

Notes on the production and trade of the district of Philippopolis.

The cattle-rearing Balkan on the north, and the vine-clad, timber-producing Rhodope on the southeast; a fertile arable plain stretching between them, and the river Maritza bathing this plain—such are the natural features which condition the production and exchange of wealth in the district of Philippopolis. This district, with its 950 towns and villages, and 600,000 inhabitants, was justly considered, before the terrible devasta-

tion recently wrought in it, as one of the most prosperous Turkish provinces. It may be interesting, therefore, to inquire in what did this relative prosperity consist, and also how far nature's bounty and man's industry in this district are favored or impeded by the political system and administrative traditions under which they are placed.

I.—FOOD-PRODUCTS AND RAW MATERIALS.

It would be trite to remark that agriculture, the staple industry of Turkey, is still in its infancy. What is more useful to be noticed is that no progress in this direction is possible, so long as the institutions and the social habits now paramount in Turkey continue to exist. An Austrian traveler, Baron Berg, has recently recorded his astonishment at the difference he witnessed in the Turkish empire, between the right and left banks of the Danube. While vassal Roumania has adopted almost all the modern agricultural implements, Suzerain Turkey still clings to methods immortalized in the Georgies. The greater number of large estates in Roumania may to a certain extent explain her advance in this respect; but their comparative rarity in Turkey is not the only reason of the backwardness of Turkish agriculture. The unjust assessment of taxes, and the still more extortionate methods of collecting them; the system of farming the tithes, with the consequent delays in gathering in the crops; the ridiculous parceling of land enforced by the law on the *tapou*, (title-deeds;) the insecurity of life and property which deters educated people from applying themselves to agricultural pursuits on a large scale; all these causes co-operate to keep the agricultural industry of Turkey in that primitive condition from which it will never emerge so long as Turkish administration proceeds on the principle of periodically slaying the hen that lays her the golden eggs. In other countries, despotic governments ruling over primitive peoples have deemed it their justification and their duty to initiate themselves an instruction and a series of institutions which might favor the advance of agriculture; in Turkey not only is there no help from the government, but private initiative, instead of being encouraged, meets with obstacles which, in many cases, are well-nigh insurmountable. The difficulties raised by custom-house officials on the importation of agricultural instruments, have deterred many an advanced agriculturist from those scientific processes which have done so much for the progress of agriculture in other countries; two or three young Bulgarians from the district of Philippopolis, who have finished their agricultural education in Germany, have not only found no encouragement from the government, but have even been persecuted in connection with the recent events; while an agricultural society formed at Peroushtitza with the object of establishing, as soon as the required capital was found, a school for theoretical and practical instruction in agriculture, has shared the fortunes of the ill-fated town where it had originated.

What has been said of agriculture may with equal justice be applied to cattle-breeding and silk-worm rearing. As regards the mining industry, though considerable mineral wealth exists in some mountainous parts of the province, the law on the working of mines has operated so well that not a single mine exists in the district of Philippopolis.

What this district is capable of producing under more favorable conditions may be gathered from its present production of food-produce and raw materials. The following figures have no pretensions to accuracy, as no official statistical returns on these matters exist in Turkey, and the few that exist on the population, &c., are made to mislead rather than instruct. Under these circumstances it is impossible to get anything like exact figures; those that appear below, founded on private inquiries, are only approximative, and are given merely with the object of showing the relative importance of the various articles of produce in the district of Phillippopolis.

Cereals and grains.—In a year of good average crop, after deduction of the seed and the quantity necessary for local consumption, the surplus available for exportation may be estimated at—

100 to 125,000 quarters of hard wheat, (blés dures.)
275 to 300,000 quarters of soft wheat, (blés tendres.)
125 to 150,000 quarters of Indian corn.
70 to 80,000 quarters of rye.
20 to 30,000 quarters of barley.
10 to 15,000 quarters of oats.
30 to 40,000 quarters of French beans, millet, sesame, linseed, &c.

The total value of all these grains may be put down at 800,000 pounds Turkish, (11 Turkish pounds equal 10 pounds sterling.)

Aniseed.—The average annual quantity exported is estimated at 1,000 tons, of the value of 20,000 pounds Turkish.

Rice.—The annual production may be computed at 6,000 to 7,000 tons, representing a value of 100,000 pounds Turkish, one-third of which is consumed in the Vilaet of Adrianople, and the rest is exported. The tithe of the rice is sent in kind to Constantinople for the use of the troops.

Lamb-skins and kid-skins, salted.—The quantity annually exported is estimated at 200,000 lamb-skins and 50,000 kid-skins, valued at 50,000 pounds Turkish.

Cocoons.—Previously to the disease of the silk-worms, the annual production was superior to 25,000 okes. At present it is not more than 40,000 to 60,000 okes, (an oke, 2¾ pounds avoirdupois,) of the value of 6,000 pounds Turkish. The two principal centers of production are the towns of Stanimaka and Peroushtitza. The dried cocoons are exported for France, while the rejects are spun out and the silk obtained is sold for local consumption.

Wool.—The annual production must be superior to 100,000 okes, but only one-tenth of it, which may be valued at 10,000 pounds Turkish, is exported, the rest being used for the manufacture of *abbas*, shayaks, and ghaïtan.

Tobacco.—The quantity annually exported may be calculated at 750,000 okes, but as the quality is low its value is not superior to 40,000 pounds Turkish.

Cow, ox, and buffalo hides.—The surplus over the local needs available for export may be computed at 15,000 hides, representing a value 15,000 pounds Turkish.

Cattle.—The annual export for Constantinople is estimated at 100,000 to 120,000, and 6,000 to 8,000 cows and oxen, of the aggregate value of 70,000 pounds Turkish. The number of sheep given is exclusive of the 400,000 sheep which are annually brought down from the Vilaet of Sophia and driven through the district of Philippopolis for Constantinople.

Buffalo-horns, bones, rags, &c.—Value of annual export 5,000 pounds Turkish.

II.—INDUSTRIAL PRODUCTS.

Sadder still than the state of agriculture in the district of Philippopolis is the condition of industry. Forty years ago the manufacture of the coarse woolen cloths called *abbas*, and of the woolen braid called *ghaïtan*, as well as the production of ready-made clothes, had attained an importance which marked out this district as one of the most industrial provinces of European Turkey. Since the Crimean war, however, the spurious refinement which has produced the change in costume, and the light duties levied by the Turkish fisc on foreign goods—a policy by which Turkey has sought to win the support of the western European powers—have gradually diminished the production of these staple articles. If no measures are taken betimes for the protection and encouragement of native industry, the observer who attentively follows its declining fortunes in this part of the country can foresee a not very distant time when it will virtually be reduced to *nil*.

The little industury that remains is almost equally divided between the inhabitants of the two mountain ranges that encircle the district of Philippopolis. While the Balkan almost completely monopolizes the production of otto of roses, *shayaks*, woolen socks, and ghaïtan, the Rhodope produces the no less important articles of the *abbas*, timber, wine, rakee, &c. The value of the products of the last mountain is superior to that of the Balkan products; but then the Balkan possesses the only two progressive branches of industry, the production of otto of roses and the manufacture of shayaks.

Otto of roses.—Luxurious Babylon is the first people mentioned by history as having practiced, by a process unknown to Greeks or Romans, the extraction of the fragrant essence of the rose. Dear, down to the present day, is this essence to the southern Asiatic. The large quantity produced at Gazeepoor, on the Ganges, is entirely consumed in Asia. Persia produces rose-water, but no otto; as regards Egypt, its production is scarcely equal to the demand of its market. While, therefore, all the otto and rose-water produced in India, Persia, and Egypt are consumed in the East, the large quantity of otto required by the European and American perfumers is supplied by the district of Philippopolis. The whole of the hilly northern parts of this district, from Zaghra to Aorat-Alan, is studded with rose-fields, the greatest number of which are found around Kazanlyk. The impassable Moltke himself was fired with enthusiasm at the view of the Kazanlyk basin. In his *Travels in Turkey* he calls it "the Kashmeer of Europe, the Turkish Gullistan, the land of roses."*

The beauty of this valley will be best understood from the fact that out of the 350,000 meticals (6 meticals = 1 ounce avoirdupois) which constitute the average annual yield of otto, and which represent a value of 60,000 pounds Turkish, more than half is produced by it. The area required for this production may be imagined when it is known that 3,200 ounces of rose-petals produce 10 ounces of otto.

The variety of rose cultivated for this purpose (*Rosa damascena*, *sempervirens*, and *moschata*) thrives best on sandy, sunny ridges. The planting of the rose-trees takes place in the spring or autumn, and the crop is ready in May or beginning of June. As a rule, every peasant in the otto-producing district is more or less of a rose-cultivator, and he is generally distiller too, unless he chooses to sell his roses to the large pro-

* Quoted by F. Kanitz in the *Oesterreichische Monatschrift für den Orient* for 15th May, 1875. Some of the above details are taken from Herr Kanitz's essay.

ducers at the price of 30 to 60 paras per oke, (½*d.* to 1*d.* per pound.) The distilling has to go through two processes: first, the rose-petals with pure fountain-water are put into the retort and distilled; then the liquid thus obtained is mixed with the petals which have undergone the first distillation; the mixture is distilled in a water-bath, and pure rose-water is obtained. This rose-water is collected in medium-sized glass bottles and allowed to cool down. During the cooling process the otto contained in the rose-water, being of a lighter specific gravity, rises to the necks of the bottles, from where it is taken out by means of a funnel-shaped spoon and poured into small flagons. The quality of otto thus obtained depends entirely upon the soil on which the roses were grown, and on the weather they had experienced. Moderately dry and sunny weather is generally most favorable for the quality of the otto, which if obtained in hilly parts of the district is much stronger than if produced in the plain.

Good qualities, however, are seldom sent pure into the western markets. Exporters complain that the perfumers in the west never pay the price of the best quality if it is offered to them unmixed. For this reason superior qualities are generally mixed with inferior, while both are often adulterated with the admixture of oil of geranium. The morality of the exporter is the only guarantee for the purity of the otto. The best-known exporters are Messrs. Pappazoglu Brothers, (a Bulgarian firm who are both distillers and exporters, and who among other distinctions have recently obtained a medal of the Philadelphia Exhibition,) Thmsen & Co., Holstein & Co., C. Christoffet, E. Collas, and two or three minor Bulgarian firms.

In consequence of the exceptional circumstances of this year, and of the destruction of three or four places, (Klissoura, Novo Sels, &c.,) which were among the largest producers of otto, this year's yield will not be more than half the average. The present prices of the producers range from 16 to 20 piasters per metical, (15*s.* to 19*s.* per ounce.)

Shayaks.—The production of *shayaks* (woolen cloth) is a household industry of many a Bulgarian village at the foot of the Balkan, more especially of Kalofer, Sopot, Carlovo, and Aoratalan. Both the spinning and weaving are done by hand. As the so-called European costume is finding more and more favor every day with the men of Turkey, and the *shayaks* are worn by all classes who adopt that costume, it may be said that their manufacture, after the production of the otto, is the only promising branch of industry in the district of Philippopolis. As yet, however, the value of *shayaks* exported every year for various parts of European Turkey cannot be estimated at more than 20,000 pounds Turkish.

Ghaïtan, (woolen braid.)—This industry occupies a good many hands at Calofer, Carlovo, and Sopot. The spinning of the yarn is done by hand, while the manufacture of the braid itself is carried on by means of a sort of primitive machinery, to the working of which the rapid streams of the above-mentioned places are very favorable. As this braid is used for garnishing old-fashioned Turkish and other eastern costumes, its manufacture is declining. The value of the annual production, of late years, may be estimated at from 60,000 to 70,000 pounds Turkish.

The manufacture of woolen socks, another domestic industry of Aoratalan and some other places, produces an annual exportable value of some 8,000 pounds Turkish.

Abbas, (coarse woolen cloths.)—Just as the manufacture of *shayaks* and woolen socks constitutes the household industry of the Balkan villages, so the production of *abbas* forms the domestic occupation of the Rhodope mountaineers. The spinning and weaving are done by the women, especially in the winter months. The cloths when ready are sold by the men to the merchants of Philippopolis, who either export them or furnish them to the government for the use of the troops. The annual production is estimated at 100,000 pieces, (of 14 yards each,) three-fourths of which are exported in pieces and the rest in ready-made clothes, which are manufactured in the town of Philippopolis. The value of all the *abbas* exported may be computed at 80,000 pounds Turkish.

Timber.—The annual production of deal boards and beams at Bellova, Batak, Pestera, Kritchin, &c., is generally estimated at 200,000 to 300,000 cubic metres, whose value may be put down at 100,000 pounds Turkish. All this timber used formerly to be transported by rafts down the river Maritza to Adrianople and Enos, from where it was shipped for Greece and Smyrna. From this latter port a considerable quantity of thin boards called *bitchmes* is also exported for the manufacture of the deal boxes in which the raisins and figs are exported. The total destruction of Batak will diminish this year the production of timber to a considerable extent. There is, however, another and far more serious danger threatening the future of the timber industry, and that is the indiscriminate cutting down of the woods. The unwise concession to Baron Hirsch of the Bellova forests will not tend to diminish this danger.

Wine and rakee.—The principal wine-growing centers in the district of Philippopoli are Stanimaka, Peroushtitza, and Vetreu. The wine they produce suffers very much from the primitive method used in its manufacture. As it remains exposed to the air during the fermentation it is very liable to deteriorate, and for this reason, not being able to bear a sea-voyage, it is consumed exclusively in the interior of European Turkey, especially in the villaët of Sophia. The spirituous liquor called *rakee* (or mas-

tich) is obtained by distillation from the skins of grapes after the last pressing. To the liquid thus obtained anise-seed and mastic are added, and a second distillation takes place, when pure rakee passes over. Of late they have begun to manufacture *rakee* from Russian and Austrian spirits, which being mixed with the necessary quantity of anise-seed and mastic are distilled and yield a liquor which is inferior to the genuine *rakee*, but still good enough for vulgar tipplers. The average annual export of wine is estimated at 2,000,000 gallons, and *rakee* at 700,000, representing an aggregate value of 100,000 pounds Turkish.

Tanned goat-skins (sahtians) and sheep-skins, (meshins.)—This industry, formerly one of the most flourishing in this part of the country, may be said to be equally distributed over the whole district—Hasskeny, Thirpan, Zaghra, Otlouk-Keny, Pazardjik, Peshtera, &c. It is now rapidly declining, as the Vienna market, the only customer, is supplied from other sources. The annual export is valued now at 20,000 pounds Turkish.

III.—EXPORTS AND IMPORTS.

The following table, showing the nature of the trade carried on by the district of Philippopoli with different states of Europe and America, is arranged according to the importance of the exchanges. Any attempt at giving the value of these exchanges would be futile. The total value of the imports may be roughly estimated at 500,000 pounds Turkish. As regards the exports, their value, as seen above, will be triple that amount. Out of the balance of 100,000 pounds Turkish the district of Philippopoli pays some 500,000 pounds Turkish for taxes, (exclusive of the tithes, which are paid in kind,) while a good part of the remainder goes to satisfy the rapacity of tithe-collectors, officials, zapties, &c. It may be right to remark, in connection with the imports, that the greater part of them are not effected direct from the respective states, but take place through Constantinople. Half of the total of imported goods for the district of Philippopolis is sold at the great fair of Ouzoundjova, which is held every year, in the last week in September. As regards the transport of the goods, it is now completely monopolized, except for live stock, by the railway, especially the Pazardjik-Dedeàghatz line. The once flourishing industries of raft transport by the river Maritza down to Enos (for exports) and of wagon transport to Rodosto (for exports and imports) are now entirely things of the past.

THE DISTRICT OF PHILIPPOPOLIS.

Imports from France.—Sugar, coffee, stearick, candles, leather, colored skins of Paris, glass panes, drysaltery, drugs, fashionable articles, drinks, perfumes.

England.—Cotton yarn, cotton goods, Bradford woolen goods, earthenware, sugar, copper, tin, steel, indigo, cochineal, carpets.

Austria.—Fez, (Turkish caps,) woolen stuffs, cheap ornaments, glass, paper, matches, arms, spirits, drugs, indigo, artificial wax, ready-made clothes.

European and Asiatic Turkey.—Cotton and silk stuffs, (Damascus,) woolen socks, (Drama,) ropes, (Vrania,) sacks and carpets, (Giorgiul,) woolen covers, (Bosnia,) colored wool, (Sophia,) soap, (Crete,) strings, (Trebizonde,) carpets, (Pirot,) olive oil, (Crete and Metelene,) towels, (Broussa,) iron, (Samakoro,) cutlery and wood vessels, (Gabrovo,) socks, (Rodosto,) raisins and figs, (Smyrna,) salt, (Asia Minor,) salted fish, (coasts of Roumelia and Asia Minor.)

Germany.—Woolen cloths, hardware, cutlery, Nuremberg goods, furs.

Switzerland.—Cotton stuffs, (printaniers,) yasmas, (head handkerchief,) handkerchiefs, watches.

Greece.—Cotton yarn, leather.

America.—Petroleum, coffee, (Rio,) dyeing-wood.

Italy.—Glass beads, white lead.

Russia.—Caviare, locks, spirits.

Servia and Roumania.—Rock-salt, (from Roumania.)

EXPORTS TO THE SAME STATES, VIZ:

France.—Wheat, (hard and soft,) oats, lamb and kid skins, cocoons, otto of roses, anise-seed, bones, horns, rags.

England.—Indian corn, barley, otto of roses.

Austria.—Rye, tanned sheep and goat skins.

European and Asiatic Turkey.—Anise-seed, (Bulgaria,) rice, (Bulgaria and Macedonia,) tobacco, (Constantinople,) sheep and cattle, (Constantinople,) abbas, (Constantinople, Asia Minor, Syria, and Egypt,) *shayaks*, (Constantinople,) wine and rakee, (vilaët of Sophia,) tember, (Adrianople and Smyrna,) ghaïtan, (Constantinople, Bosnia, Macedonia, Albinia, and Asia Minor,) woolen socks, (Constantinople.)

Germany.—Rye, lamb-skins, otto of roses, tobacco.

Greece.—Wheat, (hard,) ox and buffalo hides, timber.
America.—Otto of roses.
Italy.—Wheat, (hard.)
Russia.—Tobacco, *ghaïtan*, (for the Crimean-Tartar population.)
Servia and Roumania.—Anise-seed, abbas, tanned sheep-skins, (Roumania,) *ghaïtan*, (Servia.)

No. 314.

Aristarchi Bey to Mr. Fish.

[Translation.]

IMPERIAL OTTOMAN LEGATION,
New York, September 29, 1875. (Received September 30.)

SIR: Among the financial measures which the Sublime Porte now has under consideration with a view to improving the condition of our finances and gradually attaining the equilibrium of our budget, the most important is the increase of the revenues yielded by customs. We are obliged to place this measure in the front rank, because it can be carried out with little delay, and because it is really profitable. It was with this object in view that we gave notice in 1874 * of our desire for the cessation of the effects of our treaties with foreign nations.

By limiting the import duty on all articles indiscriminately to 8 per cent., these treaties had confined within too narrow limits revenues which were susceptible of a sure increase, as had been shown by experience and the results obtained.

Divers causes and circumstances over which we had no control have rendered our financial situation a difficult one. The kindly feeling of statesmen will admit that it is our right, as it is our duty, to endeavor to apply a remedy.

The imperial government chiefly relies upon increased receipts from customs, and we shall secure this favorable result by raising the import duty to 20 per cent.

This decision, which the Sublime Porte is constrained to adopt, cannot be interpreted as concealing a design to inaugurate a prohibitory or protective system of duties.

To suppose that we would undertake to establish protective duties in an indirect way for the purpose of favoring certain articles of home manufacture at the expense of manufacturers of similar articles in foreign countries, and of thus getting competition exclusively in our own favor, would be to impute to us an idea which we do not entertain. Every one knows that our manufactures are, unfortunately, very limited, and that our productions could not compete with those of foreign countries. Turkey being an essentially agricultural country, the activity of domestic production is not exerted in manufacturing.

We cannot, moreover, be supposed to entertain a design of favoring imports from any particular country, for the new tariff will be in all respects uniform, and besides, the increase of duties will bear principally upon our consumers, that is, upon the natives of our country. Our only object is to improve our financial situation, which demands our most earnest solicitude. Like other countries, which, finding themselves in financial difficulties, have been obliged to turn their attention to new fiscal measures, particularly the increase of their tariff rates, we find it necessary, in the interest of our country, to devote the great-

* Notice given in conformity with article 22 of treaty of 1862.

est attention to the amelioration of our finances. This is a right which the Washington Cabinet, with its high sense of equity, will not fail duly to recognize, and it is with a feeling of confidence in its friendly disposition that I hereby beg your excellency, by order of my government, to transmit to the Hon. Mr. Maynard, minister resident of the United States at Constantinople, the instructions necessary to enable him to enter into negotiations with the Sublime Porte for a new treaty of commerce.

The imperial government thinks that it could easily come to an understanding with such special delegates or commissioners as might be appointed for the purpose in regard to the manner of apportioning the duties in question among the various articles of import, and it will seek to reconcile, as far as possible, the interests of commerce with the exigencies of the treasury.

Be pleased to accept, &c.,

G. D'ARISTARCHI.

No. 315.

Mr. Fish to Aristarchi Bey.

DEPARTMENT OF STATE,
Washington, October 4, 1875.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, giving certain reasons why your government desires a cessation of the effects of existing treaties of commerce with foreign nations, of which desire you had previously given notice in your note of 15th January, 1874; and in reply, I do myself the honor to state that the subject-matter of your note will be promptly communicated to the minister resident of the United States at Constantinople, and that your proposition will receive from this Government that consideration which its importance demands.

Accept, &c.,

HAMILTON FISH.

No. 316.

Aristarchi Bey to Mr. Cadwalader.

[Translation.]

IMPERIAL OTTOMAN LEGATION,
Washington, June 1, 1876. (Received June 1.)

SIR: By my note of September 29, 1875, (No. 1661,) I had the honor to inform the Department of State of the decision of the Sublime Porte to raise the duties on important articles to 20 per cent.

I now beg leave to inform you that the imperial government intends to enforce this new measure in three months from May 1, 1876, at the latest. It reserves, in its confident hope of an understanding on this subject with foreign powers, the adoption, by common consent, of a method of apportioning these import duties.

The treaties of commerce, as they have been concluded with foreign countries, so far from improving the financial condition of the Ottoman

Empire, have unfortunately been a serious obstacle to the introduction of a fiscal system in harmony with the indispensable principle of the regulation of commerce, which regulation is intimately connected with that of the finances proper, as well as with the ever-increasing needs of the various services. In its efforts to improve the finances of the empire and to establish the public prosperity on a solid basis, the Sublime Porte thinks it has reason to hope that friendly governments will share its view, and that it may rely upon their kind co-operation.

It considers public prosperity inseparably connected with private prosperity; and, entertaining this view, it appeals to the well-known equity and wisdom of the Washington Cabinet.

Please to accept, &c.,

G. D'ARISTARCHI.

No. 317.

Mr. Fish to Aristarchi Bey.

DEPARTMENT OF STATE,
Washington, June 8, 1876.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, in which, referring to your previous note on the subject, you inform the Department that the Ottoman government has decided to enforce the new measure of raising the duties on imported articles to 20 per cent. "in three months from May 1, 1876, at the latest."

In reply to your remarks in regard to the financial condition of the Ottoman Empire, and the hope expressed by the Sublime Porte that it may rely upon the kind co-operation of friendly governments in its efforts to improve the finances of the empire, I have to assure you that this Government sympathizes most cordially with the desire of the Porte in this direction, and trusts that its efforts will prove effectual. In saying this, I do not, however, wish to be understood as expressing an opinion in favor of the wisdom or policy of the course which your note informs me it has been decided to adopt. These are questions which must be reserved for consideration and discussion.

In acknowledging the notice which your excellency has given of this intention of the Ottoman government to establish a new rate of import duties, it may not be improper to refer to the treaty of 1830 between the United States and the Sublime Porte, and to give expression to the expectation of the Government of the United States that no higher duties or other imposts shall be required of American merchants or on articles imported from the United States than are required of those of the most favored nation, and that all the privileges and favors allowed to subjects or citizens of any other state shall continue to be extended to American citizens.

Accept, &c.,

HAMILTON FISH.

EGYPT.

No. 318.

Mr. Beardsley to Mr. Fish.

No. 364.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES,
Cairo, Egypt, September 29, 1875. (Received November 8.)

SIR: The military movements on the frontiers of Abyssinia have of late excited considerable interest in Egypt, and have been the subject of comment in some of the European journals.

The permanent occupation of the province of Bogos by the Egyptian government three years ago, as reported in my dispatches numbered 9 and 19, of the 1st of August and the 16th of October, 1872, and the acquisition of Zeilah, on the Red Sea, in July last, as reported in my dispatch No. 337, of the 17th July, 1875, appears to have aroused Prince John, King of Abyssinia, to offensive operations, and to have awakened in him the same ambitious dream of territorial conquest which inspired King Theodore and contributed to his final destruction.

During the past summer Prince John has occupied himself in gathering his forces near the northern frontier of Abyssinia. Early in August he crossed the frontier of Abyssinia proper and entered the province of Hamasen. Hamasen was ruled by a petty prince, semi-independent, who, at the approach of King John, fled to Mossowah, and claimed the protection of the Egyptian government. A Swedish Christian mission, long established in the interior, also fled to Massowah for protection.

The King's forces pitched their camp at a distance of eight hours' march north of the Abyssinian frontier and sixteen hours march from Massowah, where at latest information they were still encamped. Their number is said to be 30,000, but a considerable part of their number is probably composed of camp-followers, a prominent feature of all Abyssinian and Central African armies. They are commanded by an Englishman of the name of Kirkham, who remained in Abyssinia after the departure of the English army. His official relations with the King of Abyssinia are mentioned in my dispatch No. 19, above referred to. The general object of this warlike expedition appears to be, aside from plunder, to reconquer the province of Hamasen, as well as Bogas, if possible, and to extend the frontier of Abyssinia to the sea.

At the approach of the Abyssinian forces the Egyptian frontier was defended by but a small contingent of men, and considerable apprehension was entertained for the safety of Massowah.

The military department of Massowah is under the command of Munsinger Pacha, who has lived in that neighborhood for many years. He is a Swiss, and filled the post at one time of English vice-consul at Massowah. Later he entered the Egyptian service, and for several years was governor of that province. Several battalions of troops have been sent from Suez to re-enforce Munsinger on the frontier, and an Egyptian frigate has been dispatched to Massowah.

Colonel Long, an American officer, and Colonel Arendruple, a Swede, have been sent to the scene of action to co-operate with Munsinger. Colonel Long left Suez about ten days ago with a contingent of troops and with sealed orders.

Munsinger has received orders to communicate with King John by letter, requesting him to withdraw immediately into his own territory.

In default of a favorable answer from the King, Munsinger is ordered to attack the Abyssinian forces at once and drive them beyond the southern borders of the province of Hamasen, but to proceed no further.

Advices from Massowah are now looked for with interest.

I am, &c.,

R. BEARDSLEY.

No. 319.

Mr. Beardsley to Mr. Fish.

No. 366.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES,

Cairo, Egypt, October 2, 1875. (Received November 8.)

SIR: I have the honor to transmit herewith inclosed a decree of his highness the Khedive relative to the new codes of laws which have been adopted for the use of the new judicial tribunals. By virtue of this decree the new codes will be applied in all the Egyptian tribunals on and after the 18th of the present month.

This application of the new codes in *all* the tribunals of Egypt, as well as in the new tribunals, is a fact worthy of attention, and marks an important step in advance in the judicial progress of this country. A fixed and determined code of laws has long been the great need of the East, and perhaps in no part of the East has that need been felt more than in Egypt, where the commercial spirit has been so wrongfully developed during the past half century, and where the relations between foreigners and natives are so constant and intimate.

The laws as administrated by the local courts are generally gleaned from imperfect and obsolete codes, from the dogmas of the Khoran, and from local customs and precedents.

It is not difficult to find a law, creed, or precedent for any desired decision, and he who resorts to the local courts for redress, trusting to even-handed justice for a vindication of his rights, is likely to emerge from court with anything but exalted ideas of oriental justice.

The system and the uncertainty of the laws is as much to blame as the dishonesty of the judicial authorities, and it is hoped that the adoption of the new codes may work a speedy and effectual change for the better.

Yours, &c.,

R. BEARDSLEY.

[Inclosure.]

Khedivial decree, addressed to the minister of justice the 16 *Chaban* 1292—*September* 16, 1875.

Considering that the progress of a country finds its most powerful stimulus in the codified and published laws; that the laws thus promulgated offer a serious guarantee to legitimate interests, assure the repression of culpable acts, and favor the general development and prosperity; considering that, inspired by the social wants of the period, by the sentiments which animate us to promote the general welfare and extend civilization, we have succeeded, by the grace of God, in establishing the laws which form the object of the following codes: The civil code, the commercial code, the maritime commercial code, civil and commercial code of procedure, penal code, and the code of criminal instruction.

We have sanctioned, and we hereby sanction, the said codes, which we declare executory in all the Egyptian territory, before all the tribunals and courts of justice, from the 18th of next October, and we repeal from that date all laws, ordinances, decrees which are in opposition to them.

We transmit to you a copy, bearing our seal, of the said codes, for the purpose of having them published at once, in order that they may be known to all and enter into vigor on the day designated.

May Heaven continue to aid us in our work of progress.

ISMAÏL.

No. 320.

Mr. Beardsley to Mr. Fish.

No. 381.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES IN EGYPT,
Cairo, December 1, 1875. (Received December 30.)

SIR: I regret to have to inform you of a serious disaster which has happened to the Egyptian troops who but a few weeks ago crossed the Egyptian frontier and entered the province of Tigre, as mentioned in my dispatch No. 378, of November 26, 1875.

An advanced detachment of the Egyptian troops were drawn into an ambuscade, surrounded by vastly superior numbers of the enemy, and massacred to a man.

The Europeans lost were Colonel Arendruple, whose departure from Cairo for Massowah I reported in my dispatch No. 364, of September 29, 1875; Arakel Bey, governor of Massowah, and Count Ziche.

Fortunately no American officers accompanied the lost detachment.

I shall send you further particulars at an early date.

The result of this disaster cannot be otherwise than embarrassing and prejudicial to the politics and finances of Egypt.

I am, &c.,

R. BEARDSLEY.

No. 321.

Mr. Beardsley to Mr. Fish.

No. 384.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES IN EGYPT,
Cairo, December 11, 1875. (Received January 17, 1876.)

SIR: The purchase of the Khedive's Suez Canal shares by England has been the chief topic of conversation during the past week, and the general verdict appears to be that, financially, the transaction is a wise and judicious one on the part of both England and Egypt, and that politically it is a decisive move by England on the political chess-board of the East. The French express no little chagrin at the operation, and feel that it is a serious blow to their influence in Egypt, but they have no ground of complaint against England, who only purchased on the refusal of the French capitalists, to whom the shares were first offered. Since the fall of the empire the influence of France in Egypt has been on the wane, but the exclusive control of the Suez Canal by a French company and the size and importance of the French colony in Egypt have enabled her to retain a large share of her former influence. She has, however, seen her influence gradually pale before that of other powers, and she has felt her ascendency passing away. Her long and persistent opposition to judicial reform has cost her the good-will of the Khedive's government, and now the

sale of the Khedive's canal-shares to England cannot be otherwise than humiliating to at least her colony in Egypt. The French colony here, however, are fully aware that every inducement was offered to French capitalists to take the shares, and that England had no alternative between purchasing them herself and seeing them pass into the hands of some European power which might be hostile to her interests in the East. The transaction is significant at this juncture, and is a decisive move on the part of England in the eastern question. At all hazards she will keep open her road to India. This is recognized by all parties, and the popular impression is strong and growing that England is aiming to establish a protectorate over Egypt. Her careful and considerate treatment of Egypt during the past few years, the tenor of her public journals, the decoration of the Egyptian hereditary prince with the star of India by the Prince of Wales in October last, and now, the acquisition of so large an interest in the Suez Canal, are certainly significant facts, and especially worthy of consideration at this interesting period of the eastern question. England would care but little who was at Constantinople provided she was secure on the Nile and could control the Suez Canal, and Russia would care as little for Egypt provided she was safely seated on the Bosphorus. England would hardly go to war again in behalf of Turkey, and it is very doubtful if she could be drawn into a conflict over the eastern question unless her interests in Egypt were threatened. Her policy, therefore, is to strengthen herself here by every possible means, and this she seems to be doing as rapidly as is consistent with good policy. I am not prepared to state officially, but I have every reason to believe, that other important operations are being treated, one by which the floating debt of Egypt will be guaranteed by England. I inclose herewith extracts from the London Mail in relation to the Suez Canal purchase, including diplomatic correspondence between London, Paris, and Constantinople.

I am, &c.,

R. BEARDSLEY.

No. 322.

Mr. Beardsley to Mr. Fish.

No. 385.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES IN EGYPT,
Cairo, December 13, 1875. (Received January 17, 1876.)

SIR: The financial features of the operation by which Egypt sells to England her canal-shares are interesting.

The English government gives £4,000,000 for 176,602 shares of £20 each, which belong to the Egyptian government, and Messrs. Rothschild are to pay the money immediately. These 176,602 shares are a part of 400,000 shares of £20 each, constituting the original capital of the company, but they have been diminished in value by a renunciation on the part of Egypt of any claim for dividend up to the year 1894. This renunciation was made by the Khedive in 1869, in virtue of a convention passed between himself and the canal company for the purchase of certain rights from the company. The coupons for twenty-five years were detached from the 176,602 shares, and the company issued 120,000 "obligations" against these coupons, which are now running. These obligations are entitled to all sums accruing to the 176,602 shares up to

1894, but their value is lessened by an annual sum for a sinking-fund sufficient to redeem all of them by 1894. At the close of that year, therefore, the last obligation will have been drawn and paid off, and the 176,602 shares will be entirely free, and will enjoy whatever dividends the company are then able to pay. To compensate England for the loss of the detached coupons, Egypt agrees to pay her 5 per cent. on £4,000,000 until 1894, when the shares will begin to yield dividends again.

The Khedive still retains important claims upon the canal, as is but just that he should, in view of the great sacrifices Egypt has made in behalf of the great work, which has proved of but little advantage to her. Seventeen million pounds is a low estimate of what the canal from first to last has cost Egypt. Extraordinary concessions and rights were originally granted to the company by Saïd Pasha, which Egypt in self-defense has been compelled to take back, paying heavily therefor in every case.

The Emperor Napoleon, to whom various disputed questions were referred as arbitrator, decided that Egypt should pay an indemnity of £3,360,000 to the company for taking back certain concessions, which had been granted to it for nothing. The fresh-water canal from Cairo to Suez was constructed at great expense to the Khedive. The concession for this work was originally granted free to the canal company and brought back for £400,000, when it could not otherwise raise money.

The cutting off of twenty-five years' coupons from the shares that England has bought was the last of the Khedive's heavy sacrifices for the benefit of the company. The company needed money to continue its work; no more could be borrowed in Europe. It again appealed to the Khedive, and succeeded in inducing him to purchase various rights which had been conveyed in the original act of concession. The company ceded its rights to navigate and levy tolls on the fresh-water canal, and the right of fishing in the Suez canal and the lakes it traverses, as well as all special privileges connected with the working and maintenance of the fresh-water canal; and for these concessions it charged £800,000. It also ceded to the government, for £400,000, all the establishments which it possessed on the isthmus, such as hospitals and their furniture, and its magazines and establishments at Boulac and Damietta. To raise money to pay this £1,200,000, a fresh loan not being expedient, the Khedive cut off twenty-five years' coupons from his shares, beginning with the coupon payable on the 1st of January, 1870. Having accepted the coupons instead of money, the company capitalized them by issuing against them 120,000 "obligations," as stated above, which were to receive the 5 per cent. interest borne by the coupons. As the Khedive could not pay the £1,200,000 in money, 10 per cent. was charged him until the company realized from the obligations, and it is stated that the amount he actually paid was over £1,600,000.

Thus Egypt has made great sacrifices in behalf of the Suez Canal, sacrifices out of all proportion to her interest in the work and her resources, and she alone has reaped the fewest benefits from the success of the great work. She has lost all her transit-traffic, which was very heavy and a source of great revenue to her railways as well as to the port of Alexandria. The canal passes through an arid desert and is of no advantage whatever to local commerce. The political importance of Egypt as the highway to the East has, without doubt, been increased, but this is a doubtful advantage, as she is only too liable to be made the foot-ball of European diplomacy and a perpetual bone of contention.

But for Egypt's sacrifices the canal would never have been finished,

and it is but just that she should retain a predominating influence over the canal.

The Khedive is still entitled to 15 per cent. of the excess profits after paying the statutory 5 per cent. on the shares, and owns also 2,500 founder's shares which also participate in these surplus profits. He owns jointly with the company large tracts of land all along the canal, and finally the whole property reverts to him at the expiration of ninety-nine years from the date of the company's concession, about eighty years from now.

The Khedive's government thus remains the preponderating influence in the affairs of the canal. England now possesses an important interest in the original capital of the company; but out of a capital which has to be paid off out of the profits of the company before the expiration of the lease, amounting to about £13,000,000, or, according to some estimates, nearly £16,000,000, she has only what is equivalent, £3,532,000, the par value of the 176,602 shares. To give her complete control of the canal, however, she has only to buy the balance of the 400,000 shares, say 223,398 shares, as only the holders of the original 400,000 shares have the power of voting at the meetings.

The value of these shares to England is not to be measured by a money standard entirely. The transaction is significant of the fact that the influence of France in Egypt has given way to, and been in a great measure supplanted by, that of England. France has only herself to blame for not being the owner of these 176,602 shares to-day, as they were first offered to her on far more favorable terms than Egypt finally made with England. On November 12, the French house of Dervien & Co. were asked to negotiate the affair, forty-eight hours only being given for consideration.

The Egyptian government offered 10 per cent. for the nineteen years during which the coupons were detached. The next day, November 13, 11 per cent. was offered by the Egyptian finance minister. Messrs. Dervien & Co. submitted the operations to a group of Paris bankers, who listened to, debated, and rejected it. The Egyptian government extended the time to the 14th November, and another group of the leading Paris bankers was invited to co-operate, but with no success. On the 19th November, the representative of Messrs. Dervien & Co. at Alexandria telegraphed to Paris that the Khedive did not wish to sell his shares; that he only desired an advance of 85,000,000 francs for three months, guaranteed by the deposit of his shares, and the transfer of 15 per cent. of the subsidy which the Suez Company allot to the Egyptian government. If at the end of three months the repayment was not made, the pledge became the property of the lenders.

Messrs. Dervien & Co. accepted the proposition on condition that the financial groups at Paris would support them. They, however, seemed to have received no support or encouragement whatever, and the time for ratification expired on the 26th November, at 12 o'clock. In the mean time England was not ignorant of the situation, and was kept fully informed by telegraph by General Stanton, her agent and consul-general in Egypt, of the stage of the negotiations with the French bankers. On the final failure of the negotiations England was prepared to purchase the Khedive's shares, paying therefor the market-value, 600 francs, instead of the par value, 500 francs, and accepting 5 per cent., instead of 10 and 11 per cent. offered to the French bankers.

England has thus treated Egypt fairly and justly in this transaction, while at the same time she has made a most advantageous arrangement for herself, both politically and financially. Egypt has done exceed-

ingly well, as she sells for £4,000,000 what can produce nothing for nineteen years. This sum relieves her of all present financial embarrassments, lifts her out of the hands of money-lenders, and gives her a chance to place her finances in the hands of men who can put them in order.

I will close this dispatch with a statement of the different kinds of bonds and obligations of the Suez Canal as near as I can obtain them. First, there are the 400,000 shares of original capital of £20 each, then 333,333 obligations of £20 each, bearing interest at 5 per cent., then 200,000 thirty-year bonds of £4 each, redeemable at £5, and bearing 8 per cent. interest, and finally 400,000 bonds of £3.85 each, at 5 per cent. interest, issued for the consolidation of unpaid coupons.

I am, &c.,

R. BEARDSLEY.
Vice-consul General, in charge.

No. 323.

Mr. Comanos to Mr. Fish.

No. 5.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES,
Cairo, Egypt, February 18, 1876. (Received March 15.)

SIR: * * * * * * *

Herewith please find a translation of the official account of the defeat of the Egyptian troops by the Abyssinians.

I am, &c.,

N. D. COMANOS,
Vice-Consul-General, in charge.

[Inclosure.—Translation.]

Official account of the late Abyssinian expedition from Wakaï Misrië.

The intelligence published at intervals in the newspapers has called attention to the conduct of the Abyssinian government, which during the last three years has provoked incursions into our territory, and has pillaged our frontier population.

The Egyptian government has on many occasions addressed the Abyssinian government in courteous terms, reminding it that its acts were incompatible with good neighborly relations; that it was but just to return to it that which it had taken from it, and that it should take measures to prevent the recurrence of such outrages.

Without regarding our rightful representations, and far from confining himself to the iniquitous acts which he had committed, the King of Abyssinia assembled recently a considerable army in the Harmacin province, bordering the territory of Massawa. He thus threatened our frontiers with immediate war, the more so as he put an end to all commercial relations between the two countries, forbidding Abyssinian subjects to pass into Egypt and Egyptian merchants to penetrate into Abyssinia. This state of affairs having carried dread into the heart of our frontier provinces, and deprived them of the security which our government is bound to assure to them, it sent to Massawa two battalions of mounted infantry, under the command of Colonel Arendrup Bey, in order to restore confidence to the people and to guard our frontiers. After the arrival of these two battalions at Massawa, the bulk of the Abyssinian army abandoned Hamacin and withdrew into the interior of the country. But the remaining troops posted near our frontier continued to pillage and maltreat all Egyptian subjects falling into their hands. In face of these acts of hostility, Colonel Arendrup entered Hemacin at the head of an armed force, including the aforementioned battalions, formed each of eight companies, and of six other companies which happened at that time to be in Sanhit—that is to say, a total of twenty-two companies of infantry and two batteries of artillery. It was required, to guard our frontiers, to occupy temporarily the Hamacin, and to endeavor to come to an understanding in a treaty with the King of Abyssinia.

Upon the entry of the Egyptian troops into the Hamacin, Cougag Dabron, com-

mander of the Abyssinian troops, fell back upon Adua, capital of the Tigris province. Although the Egyptian soldiers were received with manifestations of joy by the inhabitants of the Hamacin, Colonel Arendrup distributed in the following manner the twenty-two companies of which he had the disposal. Six companies remained at Fidour under the orders of Dasholz, the chief of the battalion. Passing afterward by Atkhal, where he left seven companies with Lieut. Col. Rustem Naghi Bey, Colonel Arendrup marched with the seven remaining companies to Goudet, near the river Marb. Arriving at the last-named place, he formed an advance guard of four companies, under the orders of Adjutant-Major Murgan Agha, and ordered him to advance farther into the country, though the three other companies remained at Goudet. It appears from the news lately received by telegraphic dispatch that a part of the inhabitants of Goudet came on the 16th day of the month Chawal to Murgan Agha, announcing that the Abyssinian soldiers were marching on their town, and implored his aid and protection against the invaders.

Upon this information, and at the instance of Comte Zichy, the adjutant-major pushed forward part of the advance guard, which soon encountered the Abyssinian troops, putting them to flight, and killing fifteen men.

The news spreading on the morrow that an engagement had taken place between the advance guard and the Abyssinians, they hastened to inform Colonel Arendrup of it, who at once marched on Goudet, accompanied by Lieut. Col. Rustem Bey, Arakel Bey, governor of Massawa, and five companies. Arriving first at Goudet, Colonel Arendrup left the two companies which had escorted him, and took with him two others which he found there to reinforce the advance guard. Having taken part for some time in the combat, he left the adjutant-major in command and returned to Goudet with four soldiers.

However, as a great number of Abyssinian soldiers soon followed them, a square was formed of the soldiers which were at Goudet, Colonel Arendrup placed himself in the midst, and a fight took place lasting from one o'clock a. m. until evening. The governor of Massawa and Colonel Arendrup were the first struck and killed. Lieut. Col. Rustem Bey, wounded by a ball in the head, bound his wound with his handkerchief and continued to command his soldiers for some time longer. Struck by a second ball which brought him down, he ordered, in expiring, to charge with the bayonet and to hold on till death.

The chief of the battalion of artillery, Ismail Raghi Effendi, and the chief of the battalion of infantry, Achmet Fanzi Effendi, sustained the struggle with much bravery and vigor. As much can be said of the soldiers, who, when their ammunition failed, charged the Abyssinians with the bayonet and continued the battle with fury until they fell victims to their devotion. Of the eleven companies which took part in the battle, one sub-lieutenant, one aid-major, and twenty soldiers fell as prisoners into the hands of the enemy.

The heroic resistance displayed by these brave men, from the chief officers to the plain soldiers, is a proof that every one performed his military duties with the greatest honor.

The number of deaths is 770 men of the infantry, including one entire battery. As the engagement lasted a long while, the Abyssinians must have suffered considerable losses.

Recent news states that Ras Raga, Vezir of the King of Abyssinia, also Ras Ourania, commander-in-chief of the Abyssinian troops, and the governors of Adua and of Hamacin, were killed. Later intelligence places the number of Abyssinian losses at 15,000 men. A little while after the battle, an army composed of infantry and cavalry, commanded by the King of Abyssinia in person, appeared before Atkhal, and summoned, in writing, the Egyptian soldiers who were there to deliver up their arms, and leaving them free to withdraw or to remain in the same place.

The Egyptians having answered that as their commander was absent the letter must be sent to him, and that they could not of themselves accept the propositions of the King, the Abyssinian soldiers retired without making any attack.

After spiking four cannons, which they were forced to leave on the spot for want of horses, the Egyptian detachment likewise fell back to a place called Harkikon, near Massawa, where it is now. It results from the aforementioned details that the misfortune met with by the troops which were under the command of Colonel Arendrup was occasioned in part because they were not numerous enough, and in part by the distance which separated the one from the other. But our brave soldiers shall be avenged!

His Highness the Khedive has decided to send a complete expedition, under the command of his excellency Ratib Pasha, general-in-chief of the Egyptian army. Four steamers filled with soldiers have already departed for Suez, Thursday, Friday, and Saturday, *en route* for Massawa, and the remainder will follow soon.

The expedition consists of four regiments of infantry, two squadrons of cavalry, and three batteries of artillery. His excellency Ratib Pasha will have as chief of staff General Loring, and will be accompanied by other chief officers, among whom are their excellencies Osman Rifky Pasha, brigadier-general, and four staff-officers.

No. 324.

Mr. Comanos to Mr. Fish.

No. 7.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES,
Cairo, Egypt, February 26, 1876. (Received March 22.)

SIR: I have the honor to report, as requested by instruction No. 236, November 24, 1875, that the organization of the new judicial tribunals is completed, as duly advised you by dispatch No. 389, January 6, 1876.

The new courts were officially installed on the 1st January, 1876, and they began to hear cases regularly on the 24th February. They are, therefore, in the full exercise of their functions.

No further communication is necessary to enable the President to issue his proclamation suspending the operation of the act of June 22, 1860, respecting consular jurisdiction during his pleasure, so far as relates to Egypt and to the matters which are, by the regulations of the new tribunals in Egypt, brought under the jurisdiction of those tribunals.

I am, &c.,

N. D. COMANOS,
Vice-Consul-General, in charge.

No. 325.

Mr. Fish to Mr. Comanos.

No. 247.] DEPARTMENT OF STATE,
Washington, March 31, 1876.

SIR: I have to acknowledge the receipt of your dispatch No. 7, dated 26th of February last, reporting the organization of the new judicial tribunals in Egypt, and that they begun to hear cases regularly on the 24th of that month. The organization of the new judicial tribunals having been completed, and they being in the full exercise of their functions, the President has, in accordance with the act of March 23, 1874, issued his proclamation, dated the 27th of the present month, suspending, during the pleasure of the President, the operation of the act of June 22, 1860, as to the dominions subject to the government of Egypt, so far as the new tribunals may embrace matter now cognizable by our ministers and consuls, except as to cases actually commenced.

I inclose herewith six copies of the proclamation above referred to.

I am, &c.,

HAMILTON FISH.

No. 326.

Mr. Comanos to Mr. Fish.

No. 22.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES,
Cairo, Egypt, April 21, 1876. (Received May 11.)

SIR: I have the honor to announce the unexpected return of H. H. Hassan Pasha, third son of the Khedive, from the Abyssinian expedition on the 13th instant.

It is rumored that the Egyptian forces have been defeated with great

loss. Prince Hassan complains of the cowardice of the Egyptian troops, many of whom threw down their arms and fled when attacked by the Abyssinians.

His Highness the Khedive has called out the Bashi Bazouks and Bedouin, irregular troops, and dispatched them to the seat of war.

I am, &c.,

N. D. COMANOS,
Vice-Consul-General, in charge.

No. 327.

Mr. Comanos to Mr. Fish.

No. 52.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES IN EGYPT,
Cairo, September 18, 1876. (Received October 13.)

SIR: I have the honor to report that Saturday the 16th instant, at 11 o'clock in the morning, the imperial firman, announcing the abdication of Sultan Murad and the accession of Sultan Abdul Hamid to the throne of Turkey, was read in the Gezireh palace in the presence of His Highness the Khedive, the ministers of state, Ottoman notables, the patriarchs of the several religious communities, and the consular corps.

The firman stated that the cause of the abdication by the Ex-Sultan was incompetency and illness. The new Sultan expresses confidence in the Khedive, and desires him to secure the prosperity of the country and the happiness of the people.

I am, &c.,

N. D. COMANOS,
Vice-Consul-General, in charge.

TUNIS.

No. 328.

Mr. Heap to Mr. Hunter.

No. 214.] CONSULATE OF THE UNITED STATES,
Tunis, July 6, 1875. (Received July 26.)

SIR: The Italian scientific commission mentioned in my dispatch No. 210, dated 14th June last, sent to examine the land separating the Schotts of the Great Desert and the sea at the Gulf of Gabes, in the south of this regency, has returned, and I am informed the engineers have found the obstacles to the formation of an inland sea at this point practically insurmountable. They have adopted the theory I gave in my dispatch on this subject, No. 187, dated November 14, 1874, that the Lake Isitou of the ancients, instead of being inland of Gabes, is simply the sea inclosed between the island of Gerba and the mainland.

The report of this commission will be made to the International Geographical Congress that will meet in Paris in August next.

I have, &c.,

G. H. HEAP.

No. 329.

Mr. Cubisol to Mr. Hunter.

CONSULATE OF THE UNITED STATES,
Tunis, May 12, 1876. (Received June 8.)

SIR: I have the honor to inform you that on Friday, the 5th instant, a Mussulman, who had had a slight altercation with an Israelite, killed the latter by cutting his throat with a sharp instrument which he held in his hand.

The police appeared on the scene immediately, arrested and imprisoned the culprit, who was tried by the Bey on Sunday, the 7th instant, condemned to death, and executed immediately.

At the moment of the accident, however, the Jews, hearing of the murder, came to the spot in crowds, took up the body and carried it through the city, uttering cries of revenge; they were from five to six thousand in number, and every time they came to a consulate they stopped, uttering vociferous cries.

It is asserted that the principal promoters of this disturbance were Israelites under the protection of foreign powers, although the Jew who was killed was a Tunisian subject.

The fact of this disturbance, provoked in a manner by foreigners, attracted the attention of the Bey's government on account of the dangers with which it might be attended in the midst of a population almost exclusively Mussulman, and in order to prevent a recurrence of acts of this kind, his excellency, the Bey's prime minister and minister of foreign affairs, has just addressed to the consular corps the circular of which I inclose a copy, that you may be informed as to the facts, which in such cases are often garbled by the press.

I avail myself of this occasion, sir, to inform you also that the Tunisian government has just given the concession for a railway from Tunis to Beja to a French company; this railway will extend about 150 kilometers westward in the regency, for it will extend to the mine of Dgebbat, (a mine of argentiferous lead,) the concession of which, it is said, has also been given to the same company.

I have, &c.,

J. CUBISOL,
Vice-Consul, in charge.

[Inclosure.—Translation.]

TUNIS, *May* 9, 1876.

Mr. CONSUL: On Friday last a murder was committed in one of the bazaars of Tunis by a Mussulman, the victim being an Israelite. A few moments after, the culprit was arrested and delivered up to justice.

Notwithstanding the promptness and energy of the measures taken to satisfy the law, a large number of Israelites, both Tunisian subjects and those under the protection of foreign governments, created a disturbance which was as annoying to the government of His Highness as it was dangerous to the public safety.

They immediately closed their shops in the bazaars and carried the body of the murdered man through the city with cries of revenge, stopping before several consulates, although the deceased was a Tunisian subject.

Thanks to the firmness and moderation of the local police this appeal to religious passions was not productive of the fatal consequences that might have been expected, the entire responsibility for which would have fallen upon the originators of the disturbance.

There is, however, in these acts a gravity which cannot escape your observation, and which renders it my duty to call your most serious attention to the dangers with which their renewal might be attended.

The government of His Highness, which takes every care to maintain order and to guarantee public safety in the country, and to do justice to all its subjects, without distinction, cannot recognize their right, still less the right of foreigners, to create scenes which disturb public tranquillity, and which are entirely without excuse. It is, therefore, firmly resolved not to tolerate them, and to disperse by force, if need be, disorderly assemblages which may be formed in future under similar circumstances.

I desire, therefore, Mr. Consul, to ask your co-operation to aid the government of His Highness to prevent a recurrence of these scenes, which are so much to be regretted, by giving the Israelites under your protection to understand that they have no right to interfere in cases of this nature.

The Tunisian government alone has the right to try and punish its subjects for crimes committed by them. As to preventing them, that would be asking more of it than of any other government.

Written on the 15th of Rabia Teni, 1293, (9th of May, 1876.)

The prime minister and minister of foreign affairs,

KHÊRRÊDINE.

No. 330.

Mr. Fish to Mr. Cubisol.

No. 120.] DEPARTMENT OF STATE,
Washington, June 13, 1876.

SIR: I have to acknowledge the receipt of your dispatch of the 12th ultimo, with an inclosure relative to the murder at Tunis of an Israelite by a Tunisian.

The request which is contained in the note upon the subject addressed to you by the minister of foreign affairs, that you give "Israelites under your protection to understand that they have no right to interfere in cases of this nature," is reasonable and justified by the circumstances, and you are therefore instructed to comply with the request. You will also furnish a complete list of all persons to whom any promise of protection has been given by the United States consulate at any time, and of all who now claim to be under its protection.

I am, &c.,

HAMILTON FISH.

URUGUAY AND PARAGUAY.

No. 331.

Mr. Caldwell to Mr. Fish.

No. 25.] LEGATION OF THE UNITED STATES,
Montevideo, October 16, 1875. (Received November 23.)

SIR: I have the honor to inform you that civil war has been formally inaugurated in this republic, and two combats have taken place, attended, considering the forces engaged, with much effusion of blood.

Ever since the accession of the present party to power, Buenos Ayres, whither the principal men of the opposition fled, has been the center of conspiracy against this government. On the return of the leaders who had been banished to Havana, and who actually landed in the United States, large numbers crossed over from Buenos Ayres, and, entering the northern department of the republic, commenced military operations.

The officer commanding for the government in Salto passed over to

the revolutionists with nearly all his command, thus giving them possession of this important town and much material of war. Large quantities of arms and ammunition have been obtained from Buenos Ayres.

* * * * * * *

About ten days ago two combats took place on nearly the same day, one at Guyabos, near Paysandu, on the Uruguay River, and the other at Perseverano, in the interior. In the former the revolutionary force, which seems to have been a vanguard, was nearly annihilated, 60 being killed out of a force of about 70. It is currently reported here that these men were massacred after surrendering, and a sentence in the official report of General Borgas would seem to give ground for suspicion. He says: "I regret the affair at Guyabos was so sanguinary, since I was not in time to prevent it." Among the killed was the commanding officer, Major Gurmendez, one of the banished men recently returned from New York.

In the engagement at Perseverano the government force met with a defeat, losing over 50 killed, 70 wounded, and 40 prisoners, besides arms, ammunition, and horses. The insurgents acknowledge a loss of only 5 killed and 17 wounded.

The government has declared the entire republic in a state of siege, and has called out the national guard. It has closed by decree all the ports of the republic on the Uruguay River against vessels proceeding from Buenos Ayres. Troops are being raised with all possible dispatch, and the government is sanguine of putting down the rebellion.

The financial situation of the country remains in the same deplorable condition, and business naturally grows worse from day to day. A new minister of finance, Don Andrés Lamas, has been appointed, but all his measures, which seem to be wise, are rendered nugatory by the universal want of confidence. Señor Lamas, who is at the same time minister of foreign affairs, has the reputation of being the ablest man in the republic.

I have, &c.,

JOHN C. CALDWELL.

No. 332.

Mr. Caldwell to Mr. Fish.

No. 26.] LEGATION OF THE UNITED STATES,
Montevideo, December 16, 1875. (Received January 24, 1876.)

SIR: I have the honor to inform the Department that the revolution which has been devastating this country for nearly three months has ended. The revolutionary forces, being vigorously pursued by the government troops, (the minister of war himself taking the field,) and finding themselves unable to make head against the superior resources at the command of the government, crossed into Brazil, where they were disarmed by the Brazilian authorities. This government seems inclined to act with moderation, and has already granted amnesty to all who have been captured or who have surrendered.

The President, in a proclamation, announces a speedy end of martial law and a return to the normal condition of affairs. The harvest promises to be one of almost unexampled abundance, and with peace and economy there is hope of a happier future for this afflicted republic.

I have, &c.,

JOHN C. CALDWELL.

No. 333.

Mr. Caldwell to Mr. Fish.

No. 27.] LEGATION OF THE UNITED STATES,
Montevideo, March 16, 1876. (Received April 17.)

SIR: I have the honor to inform the Department of an entire change of the executive of this republic. The entire want of confidence in President Varela and the legislative chambers, their unwise measures, and the daily increasing financial distress, indicated by gold reaching nearly 900 per cent. premium, compelled the resignation of President Varela, which was made on the 10th instant. We are officially informed that this resignation was voluntary, but it is well understood to have been compulsory. The minister of war, Colonel Latorre, who had secured the support of the army, is known to have put a pressure on the President which he could not resist. The legislative chamber also dissolved, all the members resigning. A mass-meeting held in the plaza marched to the house of Colonel Latorre and offered him the position of executive, which he accepted with the title of provisional governor. He is, in reality, dictator. His rule has been accepted by the whole country with entire quiet. His programme and measures thus far are in the highest degree praiseworthy. He is enforcing the most rigid economy, reducing officials to the lowest possible limit, and promises soon to disband part of the army. Confidence is much greater than before, as indicated by the fall of gold from 830 to 500 per cent.

The following is the executive: Lorenzo Latorre, provisional governor; Joseph M. Montero, jr., minister of government; Ambrosio Valasco, minister of foreign relations; John A. Vazquez, minister of finance; Edward Vazquez, minister of war and marine.

I have, &c.,

JOHN C. CALDWELL.

No. 334.

Mr. Caldwell to Mr. Fish.

No. 30.] LEGATION OF THE UNITED STATES,
Montevideo, July 24, 1876. (Received August 25.)

SIR: I have the honor to inform you that the political affairs of this republic continue undisturbed. The government established by the movement of March 10 meets with cordial approbation and support.

On assuming power, Colonel Latorre promised to exercise it only one year, guaranteeing the regular elections in November. The government has, however, thus far behaved with so much wisdom and moderation, that there is a general desire on the part of the people to continue its power and avoid the dangers arising from a hotly-contested election. In furtherance of this object, petitions have been circulated in all parts of the republic calling for the prolongation of the dictatorship, and a great demonstration was made in the capital on the national day, the 18th of July.

There is no doubt that the dictatorship of Colonel Latorre will be prolonged, as it is generally supported by all classes, as well foreigners as natives.

I have, &c.,

JOHN C. CALDWELL.

No. 335.

Mr. Caldwell to Mr. Fish.

No. 3.] LEGATION OF THE UNITED STATES,
Montevideo, July 24, 1876. (Received August 25.)

SIR: I have the honor to inform you that the last of the allied forces left the territory of Paraguay on the 22d day of June. This end of foreign domination has caused unbounded joy in the country, and the National Congress has ordered the day of its accomplishment to be celebrated hereafter as a national holiday.

I have, &c.,

JOHN C. CALDWELL.

VENEZUELA.

No. 336.

Mr. Russell to Mr. Fish.

No. 127.] LEGATION OF THE UNITED STATES,
Caracas, March 25, 1876. (Received May 13.)

SIR: I have the honor to report that the President delivered his annual message yesterday and to give an abstract. It will be recollected that this is the last year of his term, which ends February 20, 1877, and that his immediate re-election is forbidden by the constitution.

The President congratulates Congress on the peace and prosperity of the country, and believes that the era of civil war is ended. The State of Táchira is fast recovering from the effects of the earthquake. It is aided greatly by a new road, which also helps to solve one of the vexed boundary questions with Colombia.

Much has been done to develop the resources of the territory of the Amazons; and new territorial organizations are proposed with a like object.

It is proposed to extend the appellate jurisdiction of the Alta Corte federal, so that there may be the same interpretation of the laws in every State, and to give to this court cognizance of cases where property is taken under the right of eminent domain.

Four telegraphic lines are to unite all the chief points in the republic. A printing-press has been sent to each State that was without one. All political prisoners have been released, and all political exiles are free to return home.

It has been hoped that the Pope would have ended the church question by procuring the resignation of the exiled archbishop, but his action is postponed till April 19. If the desired solution does not then come from Rome, a law is asked, "which shall make the Venezuelan church independent of the bishoprick of Rome, and direct that the priests shall be chosen by the faithful, the bishops by the priests, and the archbishop by the Congress." "This," says the message, "was the discipline of the church founded by Jesus and his apostles." It seems to be implied that, if the archbishop's resignation is obtained, Venezuela will not seek this primitive discipline.

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I inclose a transcript of that portion of the message relating to foreign claims with a translation.

The 13 per cent. spoken of is the $5\frac{1}{5}$ per cent. of the customs revenues set apart for payment of certain foreign claims. This is $\frac{13}{100}$ of $\frac{40}{100}$. It is to be regretted that the constant use of the phrase "13 per cent." has caused general belief here that this sum is really paid.

It remains to be seen whether the claims of United States citizens not embraced in the awards of the mixed commission are to be included in the new payment proposed. When the proposition is made in form, I shall of course communicate the facts to the Department.

I presume that the Italian claims will be provided for, and I will promptly report on the matter.

The project of issuing bonds for payment of the diplomatic claims probably needs no discussion. I will only remark that by treaty the French claims, as well as our own, are to be paid with interest at five per cent. instead of three per cent., as proposed.

The President promises that when Congress has acted on these matters he will answer the request of various legations for the payment of $5\frac{1}{5}$ per cent. of customs revenues, according to promise, instead of about 3 per cent., as has been done heretofore.

The message announces a failure of the attempt to settle the boundary question with Colombia.

The Colombian Congress has claimed a vast territory in the Orinoco region, and declared the possession of it by Venezuela to be a usurpation. A commissioner has been sent to Bogotá to say that Venezuela will steadfastly maintain its possession of the Orinoco region; that it will regard as *casus belli* any act of Colombian jurisdiction therein; and that while the word "usurpation" is not withdrawn, Venezuela cuts off all diplomatic relations with Colombia. If the new administration gives a favorable answer, it is proposed to negotiate anew as to the boundary of the western part of Venezuela; and a conventional line is suggested, to be made by mutual concessions.

The Dutch question is treated of at some length; but it is not necessary to add much to the communications heretofore made on a matter, which seems to be settling itself.

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The finances are represented as in a most flourishing state. I reserve a report on this subject till the report of the finance minister appears.

The increase of duties resulting from the closing of the ports at the West has been great. And it is proposed to carry out this policy in the East, closing to foreign commerce the ports of Ciudad Bolivar, Maturin, Güiria, and Pampatar, leaving open for exportation and importation only the custom-houses of Carüpano, Cumaná, and Barcelona.

The public works have consumed 4,473,893.58 venezolanos. And those in process of construction will cost 1,820,161.51 venezolanos. These amounts seem to cover the whole term of the President's office from February 20, 1873.

Immigration has, for various reasons, declined, but is now re-established, and promises much for the development of the country.

The exportation of produce amounted during the year to 17,304,050.90 venezolanos, being an increase of two and a half millions over the last year. The chief article exported was coffee, amounting to 35,721,130 kilogrammes, and exceeding the export of any preceding year. The value of all importations is estimated at 12,000,000 venezolanos, but this is believed to be an underestimate.

The number of pupils in the schools has increased from about 31,000 to about 48,000. An increase of appropriations for education is urged.

"For the exhibition at Philadelphia, which will be a great event, as

is all that the unequaled North American Republic does, we have prepared all that we best can offer to the consideration of the mercantile and industrial world."

The army amounts to 5,494 men, double the force prescribed by law, but necessary because of the menaces of Curaçoa. The two chief ports have been fortified, provided with artillery from the United States, and with North American artillerists also.

The message recommends that the army be reduced; that the coast should be armed and garrisoned, and that a navy should be created by adding to the small marine force three monitors and six or eight war-steamers. This is recommended as part of a general policy to make Venezuela a maritime power.

At present it seems like a menace to Colombia, which has no navy. Funds for ships may be had by reducing the army. This may safely be done, as civil war in Venezuela is ended.

I give the close in full:

The Exposition with which the Great Republic, our model and ægis, celebrated its first century of existence will be the incomparable demonstration of republican vitality. I wish to be present at it; and would that the Presidents of all the republics of the south might be present, so that it might be more of a tribute to the civilization and the future of the New World; a token of brotherhood in the present, and the happy occasion to unite the perpetual views of a continental policy in America with honorable motives and firm determinations. But, for this journey, although it is not necessary by the constitution, I certainly desire your assent, with the idea that I shall not make use of it unless at the time the tranquil regularity of the country shall also authorize me. I offer prayers for the prudence of the legislative body in its labors of 1876.

The President has intended to visit the Exposition, and has made preparation for the journey. But it is generally understood that public and domestic reasons now concur to prevent him from leaving Venezuela.

I have sent a newspaper copy of the message, and shall take an early opportunity of sending a pamphlet edition.

The tone and temper are excellent, and it seems to me the best among the recent state papers of Venezuela.

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I have, &c.,

THOMAS RUSSELL.

P. S.—The special commissioner sent to Colombia has returned with news very favorable to peace. April 14, 1876.

Very respectfully,

THOMAS RUSSELL.

Translation of the portion of the President's message relating to reclamations.

It is clear to you that I have been very hostile to the abusive foreign reclamations, and you know that for that whirlpool which was devouring us has been substituted the practice of the incontrovertible principle that there is no place for diplomatic action before exhausting the proceedings provided by the legislation of the country, and reaching the case of notorious injustice or refusal of justice; and so I hope you will find what I am about to set forth to you worthy of attention. You will recollect your resolutions by which you ordered the 13 per cent. to be distributed among the governments which that of Venezuela had recognized as creditors by conventions which had received the constitutional approval of Congress; that you ordered the claims pending in the foreign office to be returned, (or renewed,) so that those interested might establish their rights in the courts, as Venezuelans do, according to our national legislation; and that you disapproved of the agreements, which were made by the

exchange of notes between the legations and the government of the republic, by virtue of which new negotiations had to be opened.

The first two points have been observed since then, and continue to be observed without much difficulty; but as to the third, there are governments which maintain without hesitation that those agreements are of final character. They are wrong; the approval of Congress for every diplomatic negotiation is a constitutional precept of the republic of Venezuela. Therefore the executive did very well in giving its account, and Congress having refused its ratification, the foreign governments are bound to re-open negotiations.

But hear me kindly when in what I am about to propose to you I am only guided by the desire to relieve the foreign office from troubles which the past has left to us, so that in future all may be clear, regular, and fitting. These agreements by exchange of notes are the only hinderance that to-day remains in our foreign department; they do not amount to an exorbitant sum, although many of the claims are questionable. I do not believe that in a new discussion we should get a very notable reduction, because the laxity of the authorities of those times often gave the claimant means to prove his false claim; the lamentable compliance of the governments that made the recognition, with the inexplicable omission to report it to the respective Congresses, and this after the lapse of so many years, it is not strange that the sincere conviction has been given to foreign governments that the agreements are final; and lastly, the vindications of all our national rights being accepted, so far as I am concerned, the cardinal motive which at first counseled me to resist these irregular agreements (as well as everything else which was not part of perfect right among nations) has ceased.

A concession so founded, made to those who recognize our rights and respect our national dignity, can only be regarded as a proof of cordiality, which becomes very well one who, after having secured all his rights, aspires to preserve and strengthen loyal and profitable foreign relations.

Would that Congress might meet these prudent ideas, and undertaking the study and determination of the matter, authorize the executive power to incorporate these credits with the respective pro-ratas of 13 per cent., declaring that this transaction, which in future cannot serve as a precedent for our diplomatic arrangements, and declaring from henceforth as null every convention, of whatever nature, of the foreign office which has not been in conformity to the constitution, approved by the legislative body by express law, with its three readings in each chamber.

There is also a legation that claims the payment of interest for the debts recognized and approved by Congress. This was not agreed when the arrangements were made, which is not strange, because these debts are of the same origin as those of the interior debt, and this has come to bear interest, after the creditors agreed to reduce the thirty millions of their original demands to seven millions only, while these foreign claims were recognized without any diminution, and are paid in full. So it happens that at the end of the accounts the foreign debts without interest result with more favor than the Venezuelan debts.

If there were not pending the revision of the awards of the mixed commission on North American claims, the project that would finish this matter in a definite way, to the contentment of the creditors, and with advantage for the government of the republic, would be to pass a law issuing bonds of 100, 500, and 1,000 venezolanos to the respective governments to the amount of their claims, fixing interest of 3 per cent. annually, and appropriating the surplus of the 13 per cent. after the payment of interest to extinguish the capital in annual and tri-monthly auction-sales.

During the year there has been delivered with all punctuality to the creditor legations the quota of 13 per cent. which belongs to each. They claim, in addition, the *pro rata* of the sum to which a balance monthly resulting from 13 per cent. amounts—a request which I will answer as soon as Congress decides the points which I have indicated above.

The American legation has received already all that has been kept back of the 13 per cent., and continues to receive every month its proper quota. This proceeding appeared to me at last preferable, in order to persuade the better the North American Government that when Venezuela protests against the awards of the mixed commission, it is not for the sake of reducing the amount of indemnity so much as it is to vindicate the dignity of the two nations so odiously offended, not only by the corruption of the tribunal, but by having violated the treaty which gave it birth.

I have also recognized—and payment of it is going on to Holland—the only indebtedness that was pending before the year 1870, the interested party having renounced the intervention of his government in what he might have a right to claim since that date.

No. 337.

Mr. Russell to Mr. Fish.

No. 187.] LEGATION OF THE UNITED STATES,
Caracas, September 26, 1876. (Received October 28.)

SIR: I have the honor to submit a brief statement as to the imports of Venezuela from the United States. I have tried to obtain statistics showing the increase of trade, and specifying the amount and value of each of the leading articles. It has been impossible, however, to obtain anything of the kind from the officials of Venezuela. A few suggestions, however, may not be wholly without value.

It is well known that for causes which are partly political, and which are ably set forth in a report of the State Department July 14, 1870, the United States have never had their natural share of South American trade. United States cotton is spun and woven in England, selling at high profits, after its two long ocean voyages. North American flour is carried 3,500 miles, to be baked in various forms, that it may then be conveyed nearly 5,000 miles to a market only 2,000 miles from its starting-point. Agricultural implements, in which the United States are supposed to excel, are brought across the ocean to South America. These facts are familiar. It is also known to business men that the commerce which has been engrossed by England is now largely shared by the Germans, who have obtained it by their enterprise in establishing steam-lines, and also, it is said, by underselling their rivals and supplying cheaper and inferior articles.

At present political influences favor the United States, and in Venezuela there is a disposition to buy the products of United States industry. So far as fashion affects trade, ours is the favored nation. As one proof of this, five establishments devoted wholly to the sale of North American articles have been set up in Caracas within a year, while other establishments have greatly increased their imports of our goods. The government also has bought largely of war materials and other things, so that leading English papers have complained that Venezuela borrows of Great Britain and buys of America.

The leading articles of importation are as they have been, flour, kerosene, lard, hams, soap and tallow, furniture, glass, hardware, domestic utensils; articles known as "Yankee notions" are coming into favor. Lumber is now brought in large quantities, especially hard pine for flooring, taking the place of brick and cement, which have been the general and unhealthful materials for floors in this country. A great building enterprize, under the charge of an excellent American builder, will probably employ a large amount of American materials as well as a large number of American workmen. Most lumber is now free from duties.

Choice specimens of horses and cattle have been introduced of late from North America; and the well-known firm of H. L. Boulton & Co. are about to import cattle for food, on a large scale, bringing them from Texas by steam-vessels. Even maize has been brought from the United States, selling at this time at 80 cents per almud, or about $3.50 United States gold per bushel. Such branches of trade depending for their profit upon exceptional and temporary circumstances will flourish more when Venezuela is connected with the United States by telegraph. This will soon be the case, arrangements having been made for a wire to be carried to Trinidad. Coal is an article which will be hereafter sent from the United States to Venezuela, where fuel is scarce and dear.

Probably the best field now open here for United States trade is the import of cotton goods. These, especially prints and sheetings, are now in demand, and bring good prices. The demand is likely to increase as buyers learn the quality of these goods.

The only figures showing the comparative import trade for two years are furnished by our faithful consul at Puerto Cabello, Dr. Lacombe. It is not his fault that he could not obtain a specification of articles, with the amount and value of each.

	Value in venezolanos.
Quarter ending September 30, 1874	84, 151. 06
December 31, 1874	39, 348. 44
March 31, 1875	98, 853. 77
June 30, 1875	300, 886. 86
Year ending June 30, 1875—total	523, 240. 13
Quarter ending September 30, 1875	452, 779. 46
December 31, 1875	316, 406. 80
March 31, 1876	570, 622. 09
June 30, 1876	186, 864. 91
Year ending June 30, 1876—total	1, 526, 673. 26
Increase	1, 003, 433. 13

A portion of this increase is occasioned by the fact that the whole foreign trade of Maracaibo has been transferred to Puerto Cabello. But Maracaibo, although formerly the first exporting city of Venezuela, has never imported largely, receiving less than half the amount of duties paid at the custom-house of Puerto Cabello. The fact that there was a considerable increase of United States imports appears further from the official statement that in the year ending June 30, 1875, the imports from the United States of America amounted only to 2,693,891.55 venezolanos, including, of course, La Guaira, which was and is the chief place for importation, especially of United States goods. I renew my regrets that it has not been possible to procure statistics from Maracaibo and La Guaira. I am confident that they would show clearly an increase of imports from the United States of America, and more clearly a relative increase as compared with the imports from other countries during a dull year.

These facts have seemed of interest to me, because they show that there is a hope of still more extended commerce; and those persons appear to be right who believe that one way to relieve business distress in the United States is to make better use of the South American market.

I have, &c.,

THOMAS RUSSELL.

APPENDIX A.

COURT OF QUEEN'S BENCH,
November 21, 1872.

EX PARTE BOUVIER. (27 Law Times, 844.)

Habeas corpus.—Prisoner convicted in France. Surrender to authorities under extradition act, 1870, (33 and 34 Vict., c. 52.)

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By sec. 27, 6 and 7 Vict., c. 75, among other acts is repealed, "and this act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the acts so repealed) shall apply, (as regards crimes committed either before or after the passing of this act,) in the case of the foreign states with which those treaties are made, in the same manner as if an order in council referring to such treaties had been made in pursuance of this act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this act." Affidavits concerning the French law were produced by both sides.

COCKBURN, C. J.: I am of opinion that this rule should be discharged. I rather hesitate to express any decided opinion as to the construction to be put upon the 27th section, although I see plainly what was the intention of the legislature; that is to say, it was intended, while getting rid of the statutes by which the treaties were confirmed, to save the existing treaties in their full integrity and force. This has been probably effected, but is certainly not very clearly expressed. Nothing would have been more simple than to enact that, although it was expedient to repeal the statutes, yet that the treaties should still have full force and effect; instead of which this complicated and obscure language has been adopted. If it were necessary in the present case to decide that point, I should have been prepared to do so, and to declare that the object had been accomplished, though at the same time I should be disposed to advise the government to make the matter safe by amending the act, in case any question might hereafter arise upon it. Upon the second ground, upon which we are asked to discharge the rule, I think there can be no real doubt. By section 3, subsection 2, the statute is to have full force where provision is made by the law of the state demanding the extradition of the criminal, or by arrangement, that the fugitive criminal shall not, until he has been restored, or had an opportunity of returning to Her Majesty's dominions, be detained or tried in the foreign state for any offense committed prior to his surrender, other than the extradition crime proved by the facts on which the surrender is grounded. I consider that the requirements of this provision are satisfied. We are now clearly informed of the practical working of the French law by the affidavit of M. Moreau, referring to the circular which is binding upon the courts of that country. It expressly provides that the criminal who is surrendered in respect of one offense will not be tried for another until he has

been restored or has had an opportunity of returning to Her Majesty's dominions. This view of the French law is confirmed by M. Felix, M. Blondel, and other authors of the highest possible authority. I am satisfied that we must discharge the rule.

BLACKBURN, J.: I have no doubt that it was intended that the old treaties should still have force and effect, and that they should be enforced by the machinery provided under the extradition act 1870. It was not intended to abrogate the old treaties, but I have very serious doubts whether the legislature have effected, by the twenty-seventh section, what was intended. If it was necessary to decide that point, I should desire to take time to consider, but I content myself with saying that it seems desirable that there should be some further legislation upon the subject. But upon the other point I am of opinion that the requirements of section 2, subsection 3, are complied with. The French law does provide that the fugitive criminal shall not be tried for an offense committed prior to his surrender, other than the extradition crime proved by the facts on which the surrender is grounded. When we read the affidavit of M. Moreau and the text-books, this is made clear. The criminal ought, therefore, to be surrendered.

MELLOR, J.: I am inclined to agree with the construction of section 27 suggested by the attorney-general; but I feel some doubt, and it would be advisable to set all doubt at rest by further legislation. Upon the other point I entirely agree with the judgments of my lord and my brother Blackburn.

SUPREME COURT OF CANADA, 1874.

Extradition case.

[Extract from report of judgment.]

IN RE
ISRAEL ROSENBAUM.

RAMSAY, Jr.

On demand for extradition by the Government of the United States of America. Before proceeding to adjudicate on the merits of this application, I must dispose of a question raised while the evidence was being taken, the decision of which was reserved till after the final hearing.

The district attorney for the State of New York, being called as a witness by the prosecution, is asked on cross-examination on the part of the prisoner, "Is there any provision in the law of the United States, or in that of the State of New York, prohibiting the trial of the person extradited for any other crime than that for which he is so extradited?"

On the part of the Government of the United States, it is objected that this question is irrelevant; Mr. Kerr, for the prisoner, cites sec. 27 of the extradition act, passed in 1870, (33 and 34 Vict., cap. 52.)

The section in question reads as follows: "The acts specified in the third schedule to this act are hereby repealed as to the whole of Her Majesty's dominions, and this act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the acts so repealed,) shall apply (as regards crimes committed either before or after

the passing of this act,) in the case of the foreign states with which those treaties are made, in the same manner as if an order in council referring to such treaties had been made in pursuance of this act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this act."

This raises the whole question as to what law governs extraditions in Canada, and whether our statute respecting extraditions on the demand of the Government of the United States of America is repealed, and if not, to what extent it is in force.

The first enactment of section 27 is perfectly simple. It repeals the act under the French treaty, both the acts under the treaty with the United States, the act of giving effect to the extradition convention with the King of Denmark, and act for the amendment of the law relating to treaties of extradition in 1866, (29 and 30 Vict., cap. 121.) The difficulty arises with regard to the construction of the second member of the section.

In order fully to understand the scope of the question raised, it is necessary to observe that by the form of expression used in the previous parts of the act, and notably in sections 2, 4, and 5, it would seem as though it were not intended to apply the act in any degree until the foreign countries with which treaties existed had, either by law or by arrangement with Her Majesty, recognized those principles.

If the statute had gone no further than this, the effect of these enactments would have been to sweep away the whole of the imperial acts, giving effect to extradition with every foreign country. This could not have been contemplated, and the necessity of avoiding such a result gives us the key of the second part of section 27, which thus becomes clear.

The act of 1870, except in so far as it is inconsistent with the treaties referred to in the acts enumerated in the third schedule, that is with the treaties with France, with the United States, and with Denmark, shall apply as if an order in council referring to such treaties had been made in pursuance of this act, and if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect "as part of this act."

The effect, then, of these treaties is saved, (1,) for all Her Majesty's dominions; (2,) colonial legislation is saved, but to what extent? Colonial legislation is to be read as part of the act of 1870, and the act of 1870 is only to apply in so far as it shall not be inconsistent with the treaties with France, with the United States, and with Denmark.

I may observe, *en passant*, that the act of 1870 seems to affect section 132 of the British North America act of 1867, by which the parliament and government of Canada is granted "all power necessary or proper for performing the obligations of Canada, of any province thereof, as a part of the British Empire, toward foreign countries, arising under treaties between the empire and such foreign countries." At least it has hitherto been supposed that this section gave the Canadian parliament power to legislate on treaty questions, and it was on this understanding our extradition act of 1869 was passed.

I may further observe that if there had been any order of the Queen or council suspending the operation of the act in Canada, as provided in section 18, all this difficulty would have been avoided, but I am informed officially that no such order exists. I must, therefore, at each step decide what part of our act is not inconsistent with so much of the act of 1870 as is consistent with the treaties mentioned in the third

schedule, that is, the treaties with France, with the United States, and with Denmark. This may become a very involved operation; but, as the question is now raised, I see no other mode of dealing with it. I am confirmed, too, in the view I take by the case of Foster, so far as it goes. There it was urged at the last moment that our legislation was repealed by the imperial act of 1870, and this pretension was negatived by the unanimous judgment of the court, and, I may add, I think rightly. In the present case it only requires me to decide whether there is any necessity for the proof of the existence of a special law in the United States to the effect that a prisoner extradited for one offense cannot be tried for another unless he has had an opportunity of leaving the jurisdiction. Is this exaction of the act of 1870 inconsistent with the treaty with the United States? On the part of the prisoner, Mr. Kerr has urged with great ingenuity that the provisions of subsections 1 and 2 of section 3 are not inconsistent with the old treaties, and that they are, therefore, in force; and that, until there is an order in council under section 5 which will of itself settle the fact as to whether subsection 2 has been complied with, the existence of the foreign law or arrangement must be proved. He further says, in support of the proposition that subsection 2, section 3, is not inconsistent with the old treaties, that the trial of a prisoner remanded for any other crime than that mentioned in the demand is a violation of international law.

Notwithstanding the plausibility of this reasoning, it fails to convince me. In the first place it goes too far; for if it were recognized as a principle of international law that a prisoner extradited could only be tried for the crime for which the extradition took place, it would not have been necessary for the Imperial Parliament to make these provisions, and it would not be necessary to ask this question. I am not, however, aware that it has been laid down in England that a man once within the jurisdiction of English courts could set up the form of his arrest, or the mode by which he came into custody, as a reason for his discharge when accused of a crime. But even were this otherwise, it is not the international law that it is sought to prove, but the special requirements of a new statute.

Now I cannot conceive how a new provision of the act of 1870 could be consistent with the treaties with France, the United States, and Denmark, entered into years before. Being of this opinion, I do not think the 1st and 2d subsections of section 3 can be considered in force until there is an order in council proclaiming them. I am officially informed that there is no such order.

A case of Bouvier, Law Journal Reports, vol. 42, part 2, new series, has been cited to establish that though there was no order in council proclaiming that the act of 1870 applied in its entirety to France, that still it was necessary to show by evidence that by the law of France the French government would not try the prisoner for any offense other than that for which the demand in extradition had been made. It seems to me that the case cited does not maintain the proposition. The judges in England did not decide the point raised here. They admit its difficulty and speak of the complicated and obscure language of section 27, and they discharged the rule on the ground that there was evidence that by the law of France the prisoner surrendered cannot be tried for any other offense, and, consequently, that it was not necessary for the court in that case to interpret section 27. Mellor, J., said, however, that he was inclined to agree with the argument of the attorney-general, which seems to me to express the same view of section 27 which I take. Mr. Kerr insisted strongly that the chief-justice and Mr. Justice

Blackburn would not have said that they considered the provision of subsection 2, section 3, complied with, unless they thought it was in force. But by the context we see clearly that they do not decide whether it was in force or not, but, that if in force, it was complied with. Whether it was in force or not depends on the interpretation of section 27, on which they did not enter. The two points raised by the attorney-general are these: (1.) Subsection 2 is not in force. (2.) If it is, its provisions have been complied with. The court adjudicated on the last point only.

No more recent case in England has been brought under my notice, and there has not been any modification of section 27. Under the circumstances, I may be permitted to say that the obscurity of the language of the statute appears to me to result from the complication of the system to be introduced, rather than from any defect of phraseology. Whether that complication is desirable or necessary, I am not called upon to determine. It is sufficient for me to interpret the statute as I find it, and about the question before me I have no doubt or difficulty.

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No. 345.

Mr. Dart to Mr. Cadwalader.

[Extract.]

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA
FOR THE BRITISH NORTH AMERICAN PROVINCES,
Montreal, April 7, 1876.

SIR: Referring to the negotiations now pending between the United States and the government of Great Britain in reference to the extradition of Winslow, forger, late of Boston, I cannot resist the temptation to give to the Department of State, although it may be of no value, two precedents established by the judges of the Dominion of Canada under the Ashburton treaty. The first arose at the October term of the Queen's Bench, 1863, in this district, when one Henry Martin was sought to be indicted for the crime of arson. The grand jury rejected the bill of indictment. He was then indicted for the crime of attempting to commit arson, upon which he was tried, convicted, and remanded to jail to await sentence. He broke jail before sentence, and escaped to the United States. He was arrested at Saint Albans, Vermont, before Commissioner Houghton, on a charge of an attempt to commit arson, and was discharged because that was not an extraditable offense. He was then charged with arson, and extradited. On the 19th of February, 1864, he was tried before the Queen's Bench for breaking jail, convicted, and sent to the penitentiary for three years, and seven years for an attempt to commit arson, of which offense he had been previously convicted. The point was taken before the court that he had been extradited for the crime of arson, and could not be tried for any other offense. This point was overruled by the judge. The Dominion government was applied to, as well as our own, to release the man on the ground that his conviction was in violation of, or in fraud of, the Ashburton treaty. The McDonald administration sustained the ruling of the judge.

The next case was the Queen against John Paxton, at the October term of the Queen's Bench, in Montreal, 1866. The prisoner was extradited from Chicago for the alleged offense of forgery, and was put upon his trial upon a charge of uttering a forged promissory note, knowing the same to be forged. The prisoner's counsel plead to the indictment, as a matter of fact, the facts above stated; the Crown prosecutor took issue, and a jury was impaneled to try the issue of facts so joined; the jury rendered a verdict that the prisoner was extradited from Chicago upon the alleged crime of forgery. The judge ruled that he could not be tried for any other offense. Upon an appeal, however, to the court of review, a majority of the judges held that the question of fact was immaterial, reversed the decision of the judge at *nisi prius*, and ordered the prisoner to plead to the indictment, upon which he was subsequently tried and convicted. (See Lower Canada Reports, volume 10, page 212.)

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So far as relates to Canada, in 1868 the Dominion government of Canada passed an act giving effect to the Ashburton treaty without the conditions contained in the imperial act, and which is still in force, and the judges here hold that they will extradite a criminal without any guarantee that he shall not be tried for any other offense. Waiving, therefore, the argument that the Parliament of Great Britain cannot, by a statute, impose conditions upon a treaty foreign to its provisions, it is claimed that by the imperial act itself its conditions are expressly waived as to those treaties, then in existence, with which the imperial act would be inconsistent.

I have the honor to be, very respectfully, your obedient servant,

WILLIAM A. DART,
Consul-General.

Hon. JOHN L. CADWALADER,
Assistant Secretary of State, Washington, D. C.

No. 348.

Mr. Dart to Mr. Cadwalader.

[Extract.]

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA
FOR THE BRITISH NORTH AMERICAN PROVINCES,
Montreal, April 18, 1876.

SIR: Some months since one Charles Worms was arrested in this city upon a warrant issued by Mr. Justice Ramsay, of the Queen's Bench, charged with the crime of forgery in the city of Philadelphia; a hearing was had, and said Worms remanded for extradition. His counsel sued out a writ of *habeas corpus*, returnable before Chief-Justice Dorion, where a hearing was had, and all the points were raised in the arguments that are now pending, as I understand it, between our own and the British government. The case attractad considerable attention, and our judges all consulted in reference to it. Chief-Justice Dorion decided that Worms should be remanded for extradition; that the imperial act of 1870 did not apply to the Ashburton treaty; and, if it did apply in terms, it could not be operative against the treaty, and that when the prisoner was in the jurisdiction of the United States he could be tried for any offense. An appeal was taken in Worms's case

to the supreme court of the Dominion of Canada, which does not sit until next June—an appeal in such cases being allowed by the act creating the supreme court, and Mr. Justice Dorion declined to hold that act unconstitutional. The minister of justice, Hon. Edward Blake, was applied to to extradite said Worms, notwithstanding such appeal, and he issued his warrant for that purpose, sustaining, as I understand it, all the points contended for by the American Government in this controversy. Yesterday Worms was surrendered to the American officer, and is now in the United States.

* * * * * * *

I have the honor to be, sir, very respectfully, your obedient servant,

WILLIAM A. DART,
Consul-General.

Hon. JOHN L. CADWALADER,
Assistant Secretary of State Washington, D. C.

No. 350.

Mr. Dart to Mr. Cadwalader.

[Extract.]

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA
FOR THE BRITISH NORTH AMERICAN PROVINCES,
Montreal, April 25, 1876. (Received April 27, 1876.)

SIR: I have the honor to state that, on examining the petition of appeal in case of Charles Worms, that document does not raise the points material in the discussion with Great Britain. Those points were raised on the argument upon the return to the writ of *habeas corpus.*

* * * * * * *

I transmit herewith a copy of Justice Dorion's return to the supreme court of Canada in that case.

I have, &c.,

WILLIAM A. DART,
Consul-General.

PROVINCE OF QUEBEC,
District of Montreal:

Extradition case.—Treaty between Great Britain and United States.

On the application of Charles Worms for writ of *habeas corpus.*

Case submitted to the supreme court in conformity with the provisions of the 38th Victoria chapter 11, and the rules of practice made in pursuance thereof.

The accused, Charles Worms, was arrested upon a warrant issued by the Hon. Mr. Justice Ramsay, on a complaint sworn to by one William L. Newman, a copy of which complaint will be found in the annexed appendix, number 1, upon which the said honorable judge issued his warrant, a copy of which is document No. 11 in the appendix After the return of the warrant, certain witnesses were examined, orally, copies of whose depositions form part of the appendix, as documents numbered 2, 4, 5, 6, 7, 8, 9.

Documents were also produced purporting to be the copy of a warrant issued in the United States and copies of documents sworn to there, consisting of the deposition of the complainant and of other papers sworn to at Washington before another official, not being the person who issued the warrant. Copies of the latter documents will be found in the appendix, marked "Number 3."

The Hon. Mr. Justice Ramsay committed the said Charles Worms for extradition, and

a copy of his commitment will be found annexed to the writ of *habeas corpus*, which I issued on the fifteenth of February last on the petition of the said Charles Worms, documents 12 and 13, respectively.

Counsel on both sides were heard before me, on the return of the writ of *habeas corpus*, as to the legality and sufficiency of the commitment mentioned in the return, as also the legality of the original complaint, the warrant thereon issued, and the legality and sufficiency of the evidence upon which the said commitment was made.

The points to which my attention was chiefly directed by the objections urged by the counsel for the accused were—

* * * * * *

I further held that the imperial act of 1870 was, by section 27 of said act, made to apply to Canada, in so far as its provisions were not inconsistent with existing treaties, with the same effect as if an order in Her Majesty's council had been passed under section 18, declaring said act to be in force in Canada and our local legislation to form part thereof; and that, as section 14 of the act of 1870 * * * * * * * * *

DEPARTMENT OF JUSTICE,
Washington, July 16, 1875.

SIR: I submit for your consideration the following opinion upon the petition of Charles L. Lawrence, referred to me under your direction by the Attorney-General on the 21st of May.

The case stated for your interposition is as follows:

The petitioner is a naturalized citizen of the United States, who having departed from this country without intending to return, while on his way was arrested in Ireland, during the month of March, at the instance of this Government, under the treaty of 1842, and after due proceedings was extradited, and in consequence thereof is now in the city of New York in jail. The only charge against the petitioner that was considered in the extradition proceedings was that he had *forged* the name of one Blanding to a certain bond and oath of entry in the New York custom-house.

The proceedings of extradition were under the British act of 1870.

Immediately upon his arrival in New York the petitioner was arrested, under bench-warrants issued out of the circuit court of the United States for the southern district of New York, upon charges of other forgeries, of conspiracy, &c., that had been committed before his extradition; and since such arrest a capias in a civil action, sued out of the same court, for unpaid duties owing to the United States before his extradition, has been served upon him.

Copies of the above-mentioned warrants, &c., are appended to the petition; the civil capias being in assumpsit, for $1,386,400 on account of unpaid duties.

The petitioner says that he is advised that his "surrender by the British government as aforesaid was made, and by arrangement with the Government of the United States was accepted, subject to the provision of the said act of 1870, which in substance declares that your petitioner shall not, until he has been restored, or had an opportunity of returning to Her Majesty's dominions, be detained or tried in the United States for any offense committed prior to his surrender other than the extradition crime proved by the facts on which the surrender was grounded, and therefore he prays for instructions to the proper officers not to prosecute him further in such civil suit or for any crime other than the identical one upon which he was surrendered, and that he be discharged from arrest under such bench-warrants," &c.

The important question presented by the petitioner, therefore, is as follows: Supposing a fugitive criminal to have been extradited in April,

1875, from Great Britain to the United States *under the treaty of* 1842, *and by proceedings taken under the British act of* 1870, does the latter Government recover jurisdiction over him in respect of any act, whether civil or criminal, done before such extradition other than the criminal act for which he was surrendered?

Unless under very special circumstances such a question, in the United States, is in its nature *legal* and not *political*. In other countries this is not so; but here, inasmuch as extradition is generally regulated by treaty, and as treaties are, of themselves, a part of the "supreme law," questions as to the effect of extraditions already accomplished are ordinarily questions *of law*. Questions of law cannot be determined, practically, in *civil cases*, except by the courts in which they are pending. Such questions, however, *in criminal cases pending in courts of the United States*, may receive a practical determination at the hands of the President by an order forbidding them to be further prosecuted.

If the petitioner had been surrendered by the British government because of irregular practices by the agents in his extradition, whereby that government had been misled, a question like the above might become *political* in its nature, and, therefore, cognizable by the Executive. Such practices may be included in the suggestions as to an "arrangement," made in the petition, although I suppose those suggestions to refer, at least mainly, to some *contract* binding the United States, and supposed by the petitioner to be authorized by the British extradition act of 1870.

If, therefore, the petitioner has been surrendered because of conduct upon the part of the agents in his extradition not authorized by treaty and yet involving the United States, in point of good faith and honor as its guarantor, I suppose that it is the political department of the Government that must give effect to such guarantee in all suits that may be brought against him. (See Scott's case, 8 Barn. & Cress., 446.)

But if the immunity claimed by the petitioner be derived from a treaty, either taken alone or as modified by a statute of the United States, or an act of Parliament required to enforce it, it seems that its existence for practical purposes is to be determined, as to the civil action of which he complains, only by the court in which that action is pending, while as to the criminal cases it may be determined either by such court or by the President. However, the President never interferes with a prosecution, unless the question made by the defendant is *plainly* one which will be decided in his favor by the court as soon as a trial can be reached. If there be doubt about that, the Executive leaves it to the judiciary, where such questions more properly belong.

Upon the evidence in the case made by the petitioner, no *political* question whatever arises. There is a total absence as well of proofs as of probability in favor of the suggestions tending in that direction.

The petition places the claim of Lawrence to immunity simply upon the allegation that it is expressly conferred by the British extradition act of 1870, under which were had the proceedings in his case at London. Other grounds, however, are taken in the learned and well-considered briefs which have been filed in this behalf, to wit: (1) That such immunity exists, *in the very nature* of extradition, under the treaty of 1842 alone. (2) That it is conceded by the United States statute of 1869, ch. 141, (Revised Statutes, sec. 5275;) and, (3) That certain conduct of those who represented the United States in the proceedings for extradition has pledged the Government to allow that immunity.

I have already dealt with the last of these suggestions; but I repeat that there is no evidence of such conduct, or of any corresponding im-

pression, having been received by the British government, or by any of its officials. I have read the proceedings. They took place before Sir Thomas Henry, a distinguished magistrate, (and eminent authority in matters of extradition,) who is credited with having had much to do with framing the act of 1870. Both the United States and the petitioner seem to have been well represented by counsel; the former by Richard Mullens, esq., a prominent member of the English bar, whose special learning in extradition law was recognized by his being called in 1868 to testify before the special committee appointed by the House of Commons to examine and report upon the state of the law of extradition, and also to advise amendments thereto. During those proceedings nothing occurred beyond the ordinary routine in extradition cases. Whether anything of the sort suggested by the petitioner is to be *implied* from the fact that those proceedings were under the act of 1870, will be examined hereafter.

It is quite as plain that there is nothing pertinent to the claim of the petitioner in the provisions of the United States statute of 1869, ch. 141, sec. 1, (Revised Statutes, sec. 5275,) which is in these words:

"Whenever any person is delivered by any foreign government to an agent of the United States for the purpose of being brought within the United States and tried for any crime of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safe-keeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the crimes or offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such crimes or offenses, and for a reasonable time thereafter, and may employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused."

A simple perusal of this act is enough to show that it has no application, direct or indirect, to the case of the petitioner. It certainly intimates that extraordinary attention by the Executive to the party extradited may properly be given, until his final discharge on account of the crime for which he was surrendered, and for a reasonable time thereafter; but attention to what end? The statute answers, to the end of his "safe-keeping," *i. e.*, keeping safe from escape or rescue, and also of his "security against lawless violence," *i. e.*, against mobs or the like. If Congress had intended that the party surrendered should be free during such time from also the ordinary action of the courts, this would have been the place to express it. Their silence is significant.

The above remarks leave for consideration the two principal suggestions by the petitioner: 1, that the British act of 1870 has so qualified the treaty of 1842, in practice, as to confer the immunity claimed upon all who are surrendered by means of its machinery; or, 2, that such immunity arises by necessary implication out of the treaty alone.

At the outset I remark that the act of 1870 has no bearing whatever, for the past or the future, upon *civil suits* brought for causes of action existing previously to the surrender.

Its application in any case is to "offenses" only. Therefore, the suit brought by the United States for unpaid duties will not be further considered under the present topic.

1. In Great Britain a treaty of extradition is not of itself *law*, but requires legislation to give it effect.

Before 1870, the treaty of 1842 was rendered effective by acts that were repealed by the act now under consideration, and since then the

latter act has been the only one giving it effect. After resorting to that act in order to secure an extradition, of course the United States will give effect to any conditions which it imposes. The importance of ascertaining its meaning is therefore conceded.

That act is one of universal application, intended to supply for all extradition agreements, past or to come, the place of the special acts for each treaty theretofore in use. It refers to such agreements by the terms *arrangements* and *treaties;* the former is the term usually employed; the latter occurs only in the 27th section. While this act was upon its passage through the House of Commons, the attorney-general, (Collier,) who was partly in charge of it, stated that the word "arrangement" was used to include not only treaties, but future agreements for extradition less formal than treaties. (Hansard, vol. 202, p. 305.) Theretofore, extradition had been provided for only by treaty. The act affords a definition of the word "arrangement" in some respects which is sufficient for our purposes. It is an agreement for extradition, that at all events must have gone before the proceedings which it authorizes, and have been published in an *order in council.* The fact that proceedings were taken under the act of 1870, therefore, cannot, as is suggested by the petitioner, either amount to an "arrangement" or have impressed British officials with the belief that there had been an "arrangement."

Again, the act of 1870 is divided into two parts: *one* relating to *future*, and the *other* to *past* agreements for extradition. Except for the twenty-seventh section the act would not apply to the treaty of 1842. As is usual in recent British legislation, it contains a section defining certain terms used therein. One portion of its definition of "fugitive criminal" is, *a person accused of an "extradition crime;"* and it defines "extradition crime" to be *one of the crimes described in the first schedule to this act.*

I call attention to these definitions for the purpose of showing that the provisions of the act (other than in the twenty-seventh section) are predicated upon the existence of relations betwixt Great Britain and the foreign state which avails itself of or is bound by them, *that entitled the latter to ask for a surrender on account of any of the nineteen crimes mentioned in the first schedule, whenever it becomes bound to recognize the immunity now claimed by the petitioner;* that is, excluding as yet all consideration of its twenty-seventh section, this act has no application to the relations of the United States and Great Britain, because these are relations for the surrender of fugitive criminals on account of the seven crimes of the treaty of 1842, and not on account of the nineteen crimes of the act of 1870. Except for the twenty-seventh section, proceedings for extradition by the United States would have continued to be under the acts previously passed to enforce the treaty of 1842.

Take, for example, the clause specially relied upon by the petitioner, viz: "A fugitive criminal shall not be surrendered unless provision is made by law or arrangement that, until he has been restored, or had an opportunity of returning to Her Majesty's dominions, he shall not be detained or tried for any offense committed prior to his surrender, other than the 'extradition crime.'" Under the definition of the terms "fugitive criminals," and "extradition crime," alluded to above, is it not evident that this clause does not apply to the case of one whose character as a fugive depends, not upon the first schedule of the act of 1870, but upon the tenth article of the treaty of 1842? So, in the second section of the act, by which its provisions are confined to cases where an arrangement has been made for the surrender of "fugitive criminals," if

the *definition* be applied to that term, it is apparent that cases in which the first schedule does not apply do not, under its general provisions, come within the act.

The twenty-seventh section, therefore, is of great importance in this discussion. After expressly repealing the acts which theretofore gave effect to the treaty of 1842, that section provides as follows: "And this act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the acts so repealed) shall apply (as regards crimes committed either before or after the passing of this act) in the case of the foreign states with which these treaties are made." That is, in applying the previous parts of the act to (say) the treaty of 1842, this section omits from such application anything in the act inconsistent with the treaty. In other words, the immunity claimed by the petitioner must be referred to the treaty considered alone, inasmuch as in all cases of difference between them the treaty controls the act, and not the act the treaty.

It is not too much to say that this is as it should be; for admitting the power of Great Britain by an act passed in 1870 to change a treaty contract made in 1842, it is not pleasant to conclude that such power has been exercised. For in such case the change has been made *without notice* to the United States; a circumstance which, in connection with the treaty of 1842, (expressly providing, as that does, for its own avoidance by short notice from either party,) might involve not only a want of courtesy toward the United States, but a want of that perfect good faith which the petitioner very properly desires to be observed by the United States toward Great Britain. There has been in this case no want of perfect good faith upon the part of either government or upon that of the officials of either; but it is apparent that if the case of legislation by Great Britain and of proceedings by the United States had been as conceived by the petitioner, reclamations by the former government against the latter on the score of ill-faith might be attended with special complications.

The view taken above as to the 27th section is confirmed by the language of the court of Queen's Bench in Bouvier's case. (27 Law Times Rep., 844; 42 Law Journal Rep., Common Law, 17; 12 Cox Cr. Cas., 303.) Bouvier was a French fugitive, demanded in 1872, under the extradition convention of 1843 between France and Great Britain, effect to which had, before 1870, been given by the same acts that had given effect to the treaty of 1842.

The treaty contained no clause granting immunity, but the proceedings against Bouvier had been taken under the act of 1870. The case therefore is so far on all fours with the present. During the proceedings (in the island of Jersey) a suggestion by the fugitive that upon surrender he might be tried in France for old offenses other than the extradition crime, was met by proof that by the French domestic law he could be tried only for that crime. In the Queen's Bench the attorney-general, (Coleridge,) who represented the French government, on that part of the case relied not only on the above proof, but also greatly upon the point that that restriction upon jurisdiction over fugitives did not by the 27th section apply to the convention with France. The proof rendered it unnecessary to decide the latter point, as in either event Bouvier would be surrendered; but the court (Cockburn, Blackburn, and Mellor) conceded that Parliament had *intended* so to provide, and inclined to think that their words had effected such purpose. They, however, suggested further legislation to clear up the doubt; but although an amendatory act has since been passed, that point was left

untouched. We may suppose that the attorney-general, as member of Parliament, differed with the judges upon the necessity of amending language which as one of the introducers of the bill he had probably closely considered in 1870. Indeed, it seems that if that language was sufficient to draw from the lord chief justice the expression, "*I see plainly* that was the intention of the legislature—that is to say, it was intended while getting rid of the statutes by which the treaties were confirmed to save the existing treaties *in their full force and effect*," (Bouvier's case, L. T., p. 846,) it is sufficient for all purposes.

The earnestness with which the distinguished counsel for Lawrence has pressed the suggestion that what the court in Bouvier's case were in doubt about was whether the convention with France had not been *abrogated entirely*, and not whether it had *been saved* in its *full force and effect*, renders it necessary to say that this cannot be so; because Bouvier was *demanded* under the convention, and the court had no hesitation in ordering his surrender. To make his surrender possible, it was necessary not only that there should be a machinery-act like that of 1870, but also a treaty, or an arrangement authenticated by an order in council. The report states that there was in existence no other convention for extradition on which the surrender could be based.

I conclude that the British extradition act of 1870 has no bearing upon the question raised by the petitioner.

II. I come now to consider whether the treaty of 1842, taken alone, warrants the petitioner in his claim for immunity.

It is not contended that the treaty confers that immunity expressly. As is well known, the extradition provision therein is one of great simplicity, and specifies no more than that the two govenments will thereafter, upon due requisition, mutually "deliver up *to justice* all persons who being charged with the crimes of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum or shall be found within the territory of the other." Therefore the only question remaining is, whether, when the treaty was made, the parties thereto understood that after surrender fugitives would be liable only for the crime made out in the proceedings therefor. Such understanding might appear in the correspondence between the negotiators of the treaty, or the debates in Congress and Parliament, or in subsequent action by courts in cases affecting persons surrendered.

No reference to the present topic is contained in such correspondence or debates, or, as I am informed, in any subsequent diplomatic correspondence between the two governments; and the decisions of the courts in the two countries, so far as they can be traced, are (without an exception) to the effect that fugitive criminals are *not* entitled to such immunity.

It is to be remarked that the language of the treaty is probably that of the American negotiator, Mr. Webster, a gentleman familiar with the practice in cases of surrender of fugitives from justice between the States, and desirous that, as to the offenses named in the treaty, that practice should be extended especially to fugitives escaping beyond the long neighboring Canada line. The simple, pregnant expression in the treaty, requiring fugitives to be delivered "*to justice*"—neither more nor less—was probably suggested by the parallel expression in the Constitution, which describes those who are to be surrendered between the States as those who flee "from justice." The opinion of Judge (afterward Mr. Justice) Nelson, in Williams vs. Bacon, 10 Wendell, 636, expresses briefly what I believe has been the uniform American doctrine

upon this subject. In that case, a fugitive had been surrendered (by Massachusetts to New York) on a charge of obtaining goods by false pretenses. After surrender he was arrested in a civil suit. On moving for his discharge from arrest, *as being a breach of public faith*, his counsel said, "On the requisition of the governor of this State, he has been delivered up by the governor of another State to answer to a criminal charge--not to be subjected to arrests here on civil process." To this Judge Nelson said: "There is no pretense that the criminal proceeding in this case was a mere pretext to bring the defendant within the jurisdiction of the court for the purpose of proceeding against him *civiliter*. The argument of the defendant's counsel in this particular is not supported by the facts of the case. Had such facts appeared, the defendant would have been discharged. As it is, the motion is dismissed, with costs."

I believe that it will not be disputed that, according to American domestic international law, fugitives *from justice*, when *bona fide* returned *to justice*, are returned to it without any qualifications arising out of the fact that they had almost succeeded in committing a fraud upon its jurisdiction by flight. I say when *returned bona fide*, because it is beyond doubt that no jurisdiction can arise in case the government which made the surrender have been induced to do so by deceit. I will add that the recognition of the above rule of jurisdiction, in the relations of so many intelligent, well-ordered communities, affords a strong presumption that it is not immoral, or in any sense contrary to first principles; and also that as the relations between foreign governments become more and more free from collateral obstructions, (one of which I shall mention before I conclude,) this will become more and more the rule in all extraditions.

The cases in which American courts have held that persons surrendered under the treaty of 1842 were liable for other offenses than the extradition crime are those of Caldwell (8 Blatchford, 131) and Burley, (Clarke on Extradition, 2d ed., p. 90, N.; also, Report of British Extrad. Comm., 1868, pp. 53 and 60.) In Adriance *vs.* Lagrave, (American Law Register, May, 1875,) the court of appeals of New York held the same doctrine as to a fugitive arrested in a civil suit, although the extradition was discredited as having been "ostensibly" for a crime.

The above are the only American cases on this subject which I have met; that of Sanford *vs.* Chase, 3 Cowen, 381, cited by the petitioner, is not in point.

Resting upon the above uncontradicted practice and decisions as proof that it is the universal understanding of the authorities in the United States that fugitives, when surrendered *to justice*, without more being said, are surrendered thereto generally, absolutely, and simply, I will now inquire whether the British doctrine differs therefrom.

The special extradition committee of the House of Commons referred to above consisted of eighteen persons, among whom were some of the most distinguished public men of the empire, viz: Messrs. Bouverie, Layard, Walpole, W. E. Forster, Stansfield, J. S. Mill, Sir Francis Goldsmid, Sir R. P. Collier, and the solicitor-general.

Their labors issued in the enactment of the law of 1870. In order to obtain particular information upon the topic of extradition, they summoned before them, and examined as experts, Sir Thomas Henry, E. A. Hammond, (the permanent under secretary of state for foreign affairs,) Mr. Mullens, and others. I have looked carefully through the proceedings and report of the committee. The evidence taken by them is reported at length. At the time of his examination, Mr. Hammond had

been in public office continuously for forty-five years, and had been under secretary since 1854. I think that it must be conceded that any statement by him of the English view of the matter, especially when acquiesced in by the eminent men of various shades of political belief before whom it was made, must be accepted as correct. Mr. Hammond called the attention of the committee to Burley's case (cited above) as one in which an American court had proceeded to put a fugitive surrendered by Great Britain upon trial for an offense other than the extradition crime, and stated that while it was pending the matter had been referred to the law-officers of the Crown, and that they had held that he might be so tried; at another point he expresses his own personal opinion as being to the same effect. (Question 1032 and 206.) The former passage in his evidence is as follows: "The question was referred to the law-officers in this country, and it was held that if the United States put him *bona fide* on his trial for the offense in respect of which he was given up, it would be difficult to question the right to put him upon his trial also for piracy, or any other offense which he might be accused of committing within their territory, whether or not such offense was a ground of extradition, or even within the treaty." No exception was taken to either statement, although several members of the committee made remarks thereupon. I suppose that the requirement therein of a *previous bona-fide trial for the extradition crime* is due to the circumstance that the case submitted went upon that hypothesis, in which event, of course, the opinion would conform to such special feature. It seems plain, inasmuch as the *bona fides* of the extradition is the important matter, that, in the absence of a treaty rendering a certain sort of evidence thereof exclusively admissible, any pertinent evidence is competent. A previous trial is plain and high, *but not the only*, evidence of *bona fides* in the previous proceedings for extradition.

In the minutes of the committee it is also stated that one Heilbronn, having been surrendered by the United States to Great Britain for forgery and acquitted thereof, was afterward put upon trial by the latter for a *larceny* committed at the same time, and was convicted. (Question 1152, &c.) Paxton's case in Canada is to the same effect. My attention has been called to these and some of the cases cited above by Mr. Clarke's Treatise on Extradition.

A moment's attention to the argument in Bouvier's case (above) will show that the court assumed that, previously to the act of 1870, the French treaty of 1843 (and so, of course, the American treaty of 1842) sanctioned trials for offenses previous to surrender other than the extradition crime.

I understand these cases to be uncontradicted in Great Britain, and therefore that the executive and judicial authorities of that government agree with those of the United States in pronouncing against the existence of the immunity claimed by the petitioner under the treaty of 1842, considered alone.

Upon the whole I am of opinion:

I. That as there has been no promise or conduct by any person who represented the United States in the proceedings for the petitioner's extradition which modifies the operation of the treaty upon his present condition, that condition is here a question of *law*, not of *policy*.

II. Therefore, that the President cannot interfere in the civil suit pending against the petitioner; and

III. That no ground has been laid for an order to discharge the pe-

titioner from further prosecution upon the criminal matters specified in the petition.

Inasmuch as, according to the views of this Government, extradition is wholly a matter of *positive* international law, I have confined the above discussion to the relations *actually* existing betwixt the United States and Great Britain. I have therefore omitted to remark upon the French domestic regulation of 1841, by which this immunity is provided for fugitives extradited to France. For the same cause, it seems unnecessary, except incidentally, to refer to the circumstance that the similar feature in the British act of 1870 is due, not to a conviction that it is proper in itself, but to a desire to prevent all chance that a fugitive may be demanded for one offense and then tried, besides, for an offense in its nature *political*. (Hansard, vol. 202, p. 302; Report Extrad. Comm., question 666, &c.) The reason for inserting so sweeping a provision, to effect an object so limited, may be gathered from the minutes of the committee of 1868. Briefly stated, it is that, as nations differ upon what constitutes a *political* offense, the benefit of the British view thereupon can be secured to fugitives only by providing that they shall be triable for no offenses except such as have been previously scrutinized by British officials.

The provision of 1870 is therefore, so to say, collateral, and announces no general principle in international law.

As the general ideas of *government* and *justice* which prevail in Great Britain and the United States preserve the likeness due to a not remote common origin, nothing, either past or apprehended, has suggested to either party the propriety of putting an end to the extradition agreement of 1842 *by notice*, as provided in the eleventh article of the treaty. This would be a natural and easy step toward the introduction of a stipulation like that in the act of 1870. As regards each other, therefore, these powers prefer the agreement of 1842 to the one last mentioned, which, however, each of them has of late adopted in arrangements with some other states. Until something has occurred to render either of these powers apprehensive that political offenders cannot be protected against the other, unless by restricting jurisdiction to the extradition crime, the rule of the treaty of 1842 will probably remain in force. In the mean time, that upon a proper occasion the Government of the United States will either suggest or will consent to such a restriction is shown by its recent treaties with Italy, 1867, and Nicaragua, 1868. (Statutes at Large, vol. 15, p. 629, and vol. 17, p. 815.)

I am, sir, very respectfully, your obedient servant,

S. F. PHILLIPS,
Solicitor-General.

The PRESIDENT.

[Extract.]

United States circuit court, southern district of New York.

THE UNITED STATES
vs.
CHARLES L. LAWRENCE.

MARCH 27, 1876.

BENEDICT, J.:

This case comes before the court upon a demurrer interposed by the Government to a rejoinder filed by the defendant.

The proceedings commence with an indictment, charging the accused with several offenses—all being forgeries—alleged to have been com-

mitted within the jurisdiction of this court, and all by statute offenses against the United States. * * * * *

In disposing of the questions argued before me upon this demurrer, I first notice the position taken that all extradition proceedings by their nature secure to the person surrendered immunity from prosecution for any offense other than the one upon which his surrender is made.

This question is not open in this court. It was decided in Caldwell's case, (8 Bla., p. 131.) That determination has since received strong support from the decision of the court of appeals in this State, in Adriance vs. Lagrave, (59 N. Y., p. 115,) where the existence of any such immunity was denied in a civil case, and it should be noticed that the present circuit judge of this circuit took part in the decision of the court of appeals, being then a member of the court. This ground of defense is therefore dismissed with the remark that an offender against the justice of his country can acquire no rights by defrauding that justice. Between him and the justice he has offended, no rights accrue to the offender by flight. He remains at all times and everywhere liable to be called to answer to the law for his violations thereof, provided he comes within the reach of its arm.

But here it has been contended that the accused has such immunity by reason of the provisions of the treaty of 1842, under which his surrender was made, which it is correctly said is a law of the United States, binding upon the courts.

The decision of Caldwell's case is decisive of this question also, for Caldwell was surrendered under the treaty of 1842. But as no argument was made in Caldwell's case based upon the provisions of this particular treaty, the argument now made in support of this construction of the treaty may properly now be examined.

At the outset, let it be noticed that no language is used in the treaty which can be supposed to confer the immunity here claimed. On the contrary, the language of the treaty is calculated to repel the idea, for it declares that the offender shall be "delivered up to justice." A significant and comprehensive expression, plainly importing that the delivery is for the purposes of public justice, without qualification.

It is, however, argued that both the parties to this treaty have placed a construction upon its provisions which confers the immunity for which the accused contends, and reference is made to acts of Congress of 1869 and of 1848, (U. S. Rev. Statutes, § 5272 to § 5275,) and to the British extradition act of 1870, as supporting the assertion.

The act of Congress of 1848 is a general law intended for the protection of extradited offenders, but the protection it confers is expressly limited to cases of "lawless violence."

It is true that it assumes, as well it may, that the offender will be tried for the offense upon which his surrender is asked, but there are no words indicating that he is to be protected from trial for all other offenses. The absence of any provision indicating an intention to protect from prosecution for other offenses in a statute, having no other object than the protection of extradited offenders, is sufficient to deprive of all force the suggestion that the act of 1848, as a legislative act, gives to the treaty of 1842 the construction contended for by the accused.

So of the act of 1848, the provision of which relied upon is as follows: It shall be lawful for the Secretary of State to order the offender "to be delivered to such person as shall be authorized in the name and on the behalf of such foreign government to be tried for the crime of

which such person shall be so accused, and such person shall be delivered up accordingly."

It does not seem reasonable to suppose that it was the intention of Congress, by the above language, to give a legislative construction to the existing treaty of 1842.

The provision of the act of 1848 is within the broad provision of the treaty, but does not restrict the operation of that provision, and it may be safely assumed that if the intention to limit the effect of or give a construction to that, or if any other treaty had been entertained, assuming such a function to belong to a statute of this character, that intention would have been plainly expressed.

The acts of Congress referred to, therefore, fail to afford a legislative construction of the treaty in the particular under consideration.

It is still more difficult to find support for the doctrine of the defense in the provisions of the British extradition act of 1870.

How can it be that, without any action on the part of the treaty-making power of the United States, the Parliament of England, by a statute of England, passed 28 years after the treaty of 1842, can engraft upon that treaty a provision of immunity not found in the treaty, and which must thereafter be enforced by courts as part of the laws of the United States?

The effect proper to be given by the executive department of the Government to any condition found in an extradition statute of England to which the Government of the United States has assented in any particular case, is not under consideration. Here the question is judicial, and it is whether the British act of 1870, by reason of its subject-matter, becomes a law of the United States, and as such affords a legislative construction of this treaty binding upon the courts of the United States.

Upon such a question no time need be spent, and it is dismissed with the observation that it would appear that the English courts incline to the opinion that the act of 1870 has no effect in England even to limit the operation of the treaty of 1842, as is seen by the opinions delivered in the court of Queen's Bench, in Bouvier's case. (27 Law Times R., p. 814.)

The words of the lord chief justice in that case are, "I see plainly that it was the intention of the legislature, that is to say, it was intended (by the act of 1870) while getting rid of the statutes by which the treaties were confirmed to save the existing treaties in their full force and effect."

Nor is it made to appear that any such construction of the treaty of 1842 has been adopted by the executive department of either government.

An agreement for such immunity in the present instance is set up by the plea.

But it is competent for the Government of the United States to enter into such an agreement with the government of England in the absence of any provision for immunity in the treaty. And the demand for such an agreement on the one side, as well as the giving thereof on the other, leads to the inference that no such protection is afforded by the treaty itself. A single instance of such an agreement does not, therefore, help the argument.

The understanding of the treaty by the executive department is better shown by the action taken or omitted in the cases that have arisen where there has been no agreement. So in the case of Heilbronn, who was surrendered by the United States, upon the request of England, for an extradition crime, a trial was had in England for an offense not pro-

vided for in the treaty, without interference by the executive there, and without complaint from the Government of the United States. So, also, Burley, an offender surrendered by England to this Government, was put upon trial in this country for an offense other than the one upon which he was extradited; and the case being called to the attention of the law-officers of the Crown, it was considered that "if the United States put him *bona fide* upon his trial for the offense in respect of which he was given up, it would be difficult to question the right to put him upon his trial, also, for piracy, or any other offense which he might be accused of committing within this territory, whether or not such offense was ground of extradition or within the treaty."

No case has been referred to where the right above spoken of has been questioned by the British government. On the contrary, if I am correctly informed, such right has not hitherto been denied in England.

As to the effect of the fact of a previous trial for the offense of which the offender was given up, to which allusion is above made, it is plain that such fact is immaterial in determining the judicial question where legal immunity is set up by way of defense in a prosecution for other offenses, however important that fact might be, as evidence of good faith in determining the political question when it arises.

It may be added that the action of the executive department of the Government of the United States, in the cases where extradited offenders have been tried in this country for offenses other than those upon which their surrender had been asked, has a significant bearing upon the legal question under consideration; because in criminal cases, as distinguished from civil cases, the Executive, by reason of the power to pardon, is not confined to a consideration of the political question alone, but may also act upon a determination of the judicial question.

But it is further said that the British act of 1870 amounts either to an abrogation of the extradition section of the treaty of 1842, or to a modification of the provision, and inasmuch as by the eleventh section the Government of Great Britain could at any time abrogate that portion of the treaty, the act of 1870, if considered by the Government of the United States as an abrogation, would have been so declared, and in the absence of such a declaration must be considered to be acquiesced in by the Government of the United States as its construction of the treaty, and becomes a part of the treaty binding upon the courts.

This proposition is answered by what has been already said in regard to the effect of the British act of 1870, and the action of the Government of the United States in the cases which have hitherto arisen.

Moreover, if the action of the two governments and the act of 1870 be given the utmost effect possible in favor of the accused, all that can be extracted from them is an implied engagement to afford protection to persons extradited in pursuance of the treaty from prosecution for causes other than upon which their surrender was asked, which addresses itself to the political not to the judicial department. It is not intended to suggest that such can be their effect, but simply to express the opinion that in any aspect they have no greater effect, and in view of the language of the treaty cannot be relied on as affording a legislative or executive construction of that instrument binding upon the courts.

It may, therefore, without hesitation be declared that the claim of legal immunity here made is without foundation in the treaty of 1842. In support of this conclusion reference is made to the authority of the court of appeals of the State of New York, which high court in Lagrave's case was called on to declare the effect of this same treaty.

* * * * * * *

APPENDIX B.

COURT OF COMMISSIONERS OF ALABAMA CLAIMS.

COURT OF COMMISSIONERS OF ALABAMA CLAIMS,
Washington, D. C., November 14, 1876.

SIR: I have the honor to inform you that on the 1st of January next this court will have adjudicated all the claims presented to it in accordance with the several acts of Congress prescribing its jurisdiction and powers.

Under the act approved June 23, 1874, 1,383 claims were filed, and after the passage of the act approved March 6, 1876, 685 additional claims were presented, making the total number of claims filed 2,068.

The aggregate sum claimed in all these cases was about fourteen and one-half millions of dollars.

There have been submitted to the court 1,958 claims, and judgments have been rendered in 1,928 of them, leaving 30 cases heard and now under advisement. There yet remain 110 claims to be submitted.

Two lists of claims adjudicated have been reported to you as required by law; the first embracing the judgments entered on or prior to January 22, 1876; the second embracing the judgments entered between that date and July 22, 1876.

The amount of the judgments embraced in the first list, with interest, was	$6,642,927 64
The amount in the second list, including interest, was	2,353,787 44
Total amount reported for payment with interest.	8,996,715 08

Since July 22, 1876, the aggregate amount of the judgments entered (not yet reported to you) is	155,426 40
Total amount of judgments to this date, including interest	9,152,141 48
The total amount claimed in the cases decided, not including interest, was	13,172,319 46
The amount claimed in the cases not yet heard, not including interest, is	1,292,932 80
And in those heard but not decided, is	24,064 73
Total amount, not including interest, claimed in cases not yet decided	1,316,997 53

The only claims (with the exception of those of insurers stated below) adjudicated by the court were those presented by owners of property actually destroyed by the cruisers named in the act of June 23, 1874, or by sailors on vessels destroyed for loss of personal effects and wages.

These claimants have been awarded the value of their property less the amount of insurance received by them.

Five claims of insurers, corporate or private, have been allowed, in accordance with the provisions of section 12 of the act creating this court, in which the aggregate amount of the judgments was $160,290.22. All of these insurers alleged and proved not only that they suffered losses by the acts of the inculpated cruisers, but that the aggregate of their losses in the business growing out of "war-risks" was greater than the aggregate of their premiums and other gains growing out of "war-risks" taken.

Some few claims were presented for loss of premiums paid insurance companies on account of "war-risks," or for loss of property destroyed by cruisers other than those named in the act.

The court dismissed these cases as not coming within its jurisdiction as limited by law.

It will thus be seen that, with the exception of the insurance-claims above stated, the awards of this court have been made in favor only of persons owning property actually destroyed by the Alabama, Florida, or Shenandoah after she left Melbourne; and that these awards have been made for the value of the property destroyed, less any insurance or other indemnity received by the complainant in claims filed previous to June 7, 1876.

I present herewith, in tabular form, the results of the foregoing statements.

I have the honor to be, sir, your obedient servant,

JOHN DAVIS, *Clerk.*

Hon. HAMILTON FISH,
Secretary of State.

Statement showing the number of claims decided and yet to be decided in the Court of Commissioners of Alabama Claims, with the amounts claimed and awarded.

Total number of claims filed under act of Congress of June 23, 1874	1,383	
Total number of claims filed under act of Congress of March 6, 1876	685	
Total number of claims filed	2,068	
Total number of cases submitted	1,958	
Total number of cases decided	1,928	
Total number of cases submitted but not decided	30	
Total number of cases not yet submitted	110	
Total amount of judgments, including interest, from July 22, 1874, to and including January 22, 1876		$6,642,927 64
Total amount of judgments, including interest, from January 22, 1876, to and including July 22, 1876		2,353,787 44
Total amount of judgments, including interest, from July 22, 1876, to and including November 10, 1876		155,426 40
Total amount of judgments, including interest, entered since July 22, 1874, to and including November 10, 1876		9,152,141 48
Total amount claimed, exclusive of interest, in cases not yet submitted		$1,292,932 80
Total amount claimed, exclusive of interest, in cases submitted but not yet decided		24,064 73
Total amount claimed, exclusive of interest, in cases decided		13,172,319 46
Total amount claimed, exclusive of interest		14,499,316 99

APPENDIX C.

UNITED STATES AND MEXICAN CLAIMS COMMISSION.

WASHINGTON, D. C., *November* 23, 1876.

SIR: The umpire under the convention between the United States and the Mexican Republic of July 4, 1868, having concluded his labors by the decision of all the cases referred to him by the commissioners within the time allowed by the convention of April 29, 1876, I am now able to report the general results of the action of the commission upon the claims laid before it by the respective governments.

Within the time limited by the convention of July 4, 1868, 1,017 claims on the part of citizens of the United States against the Mexican Republic were referred to the commission, aggregating, including damages and interest where they were claimed, $470,126,613.40. Of these claims, 831 were dismissed or disallowed, and in 186 cases awards were made in favor of the respective claimants against the Mexican Republic.

The total amount awarded in all the cases decided in favor of citizens of the United States against the Mexican Republic, in the three kinds of money in which the awards are respectively designated to be payable, namely, the currency of the United States, the gold coin of the United States, and Mexican gold dollars, including interest and costs in cases in which they were allowed, as appears by the statement prepared by the American secretary, is $4,125,622.20.

Within the same period, 998 claims on the part of citizens of the Mexican Republic against the United States were referred to the commission, such claims aggregating, including damages and interest where claimed, the sum of $86,661,891.15. Of these claims, 831 were dismissed or disallowed, and awards were made in 167 cases against the United States.

Of the 167 cases in which awards were made against the United States, 150 belonged to the class of claims known as the "Piedras Negras cases," which were treated and disposed of by the commissioners as *one* case, so that in fact the number of cases in which such awards were made is 17.

The total amount awarded in all the cases decided in favor of citizens of the Mexican Republic against the United States in the three kinds of money above mentioned, including interest and costs in cases in which they were allowed, as appears by the statement of the American secretary, is $150,498.41.

The balance in favor of citizens of the United States, in the three kinds of money above mentioned, is, therefore, $3,975,123.79.

It is proper for me to mention, in explanation of the foregoing statement, that the commissioners and the umpire in making their awards employed three kinds of money. In some cases the amounts awarded are stated to be in the currency of the United States; in other cases,

the awards are expressed in the gold coin of the United States; and in still others, the sums allowed are declared to be in Mexican gold dollars.

I call attention also to the fact that in the awards in several claims on the part of citizens of the United States portions of the amounts respectively allowed are expressed to be in the currency of the United States, and other portions are expressed to be in the gold coin of the United States.

The tables herewith transmitted, prepared from the records with great care by Mr. Randolph Coyle, the American secretary, and Mr. John H. Ingle, of my office, exhibit the amounts of the respective awards in favor of the citizens of each government, including interest and costs in cases where interest and costs were allowed, in the several kinds of money in which the awards are respectively expressed.

I should also mention that the commissioners and the umpire made several declarations or orders for the purpose of interpreting expressions employed in several of their respective awards relative to the currency in which amounts allowed in those awards should be respectively payable, and that those declarations or orders have been considered and applied in the preparation of the statements contained in the tables herewith transmitted.

The tables show that the total amount awarded in the currency of the United States, including interest and costs where they were allowed, in all the cases decided in favor of the citizens of the United States against the Mexican Republic, is $402,942.04, and that the total amount awarded in the currency of the United States, including interest and costs where they were allowed, in all the cases decided in favor of the citizens of the Mexican Republic against the United States, is $89,410.17, leaving a balance in the currency of the United States in favor of citizens of the United States of $313,531.87. They also show that the total amount awarded in the gold coin of the United States, including interest and costs where they were allowed, in all the cases decided in favor of citizens of the United States against the Mexican Republic, is $426,624.98; and that the total amount awarded in the gold coin of the United States, including interest and costs where they were allowed, in all the cases decided in favor of the citizens of the Mexican Republic against the United States, is $10,559.67, leaving a balance in the gold coin of the United States in favor of citizens of the United States of $416,065.31.

It further appears by the tables transmitted that the total amount awarded in Mexican gold dollars, including interest and costs where they have been allowed, in all the cases decided in favor of the citizens of the United States against the Mexican Republic, is $3,296,055.18, and that the total amount awarded in Mexican gold dollars, including interest and costs where they were allowed, in all the cases decided in favor of citizens of the Mexican Republic against the United States, is $50,528.57, leaving a balance in Mexican gold dollars in favor of citizens of the United States of $3,245,526.61.

These several balances make the total balance in the three currencies in favor of citizens of the United States above stated of $3,975,123.79.

It has been necessary, for the purpose of ascertaining the total amounts of the awards in a large number of the cases, to calculate the interest allowed upon the principal sums respectively awarded from the several dates fixed in the awards to the time when it was provided that interest should cease.

It would have been more satisfactory if the commissioners and the umpires had deemed it convenient to make their awards, in cases in

which they allowed interest, definite, by computing the interest and awarding a certain aggregate amount in each such case. The practice, however, was to award interest where it was allowed, in general terms, from some date ascertained or referred to, "to the close of the labors of the commission," or "to the date of the final award," or in words of the same import and effect.

The commissioners, on the 25th of January, 1876, before their final adjournment, entered an order declaring that in all cases decided by them wherein interest was allowed "*to the close of the labors of the commission*," such interest should be calculated to the date of the last decision the umpire should make within the time then limited for the completion of his labors by the convention of November 20, 1874.

The umpire, Sir Edward Thornton, made a declaration on the 31st of January, 1876, determining that in all cases decided by him wherein interest was allowed "*to the date of the final award*," that date should be considered to be the date of the last award which the umpire should make in accordance with the terms of the convention of November 20, 1874; that is to say, of the last award which the umpire should sign on or before the 31st of July, 1876.

Under date of the 31st of July, 1876, the umpire made a declaration to the effect that his award in the case of Geronimo de la Garza *vs.* Mexico, No. 993, bearing date the 31st of July, 1876, was the award alluded to in the order of the commissioners of January 25, 1876, and that the date of the 31st of July, 1876, is the "date of the final award" to which he had himself referred in his decisions in which he had awarded interest from specified dates "to the date of the final award," or had made use of words to the same effect.

And finally upon the suggestion of the agents of the two governments that the former umpire, Dr. Francis Lieber, made divers awards with interest from particular dates "to the close of the labors of the commission," or made use of similar terms to fix the limit of time to which interest on those awards should be calculated, and had died without making any declaration as to the meaning of those expressions, the umpire, Sir Edward Thornton, made an order under date of the 17th instant "that in all awards of money made by his predecessor, the late Doctor Lieber, wherein interest is allowed 'to the close of the labors of the commission,' or other similar terms are employed to fix the date to which interest shall be calculated, the 31st of July, 1876, shall be deemed and taken to be such date."

It appears, therefore, that all uncertainty as to the date to which interest should be calculated on the principal sums respectively awarded in the cases contemplated and embraced by the orders of the commissioners and the umpire which have been recited, has been removed, and that the date of the 31st July, 1876, has been authoritatively fixed as the date to which the interest awarded in those cases respectively should be calculated.

The tables herewith transmitted contain schedules respectively of the claims on the part of citizens of the United States against the Mexican Republic, and of the claims on the part of citizens of the Mexican Republic against the United States, in which awards of money were made by the commissioners or the umpires, and statements of the amounts of the respective awards in the several kinds of money in which they are respectively expressed, according to the terms of the decisions respectively, or the declarations or orders to which I have referred, explaining or interpreting those decisions.

The statement of the total amount awarded in each case includes the interest and costs where they were allowed.

I have called attention to the fact that in several of the American cases portions of the amounts respectively awarded are expressed in the currency of the United Slates, and other portions of those amounts are expressed in the gold coin of the United States. In all the cases of this class, with one exception, the sums respectively awarded in the currency of the United States were allowed for costs.

In numerous instances interest was allowed upon particular amounts awarded, while it was expressly disallowed upon other amounts awarded in the same cases.

In several cases awards were made of particular sums bearing interest from different dates, subject to certain deductions or credits, with interest from various dates; and the liquidation of the items of the awards with the view of arriving at the proper total awards in this class of cases has been a matter of no little nicety of calculation.

Calculations of the interest in the cases in which interest was allowed were made independently of each other by Mr. Coyle and Mr. Ingle, who are expert arithmeticians, and I find that in every instance their separate computations produce the same result.

I am informed that the calculations of interest which have been made on the Mexican side agree with those made on the American side of the commission; and that the several balances in favor of citizens of the United States in the three kinds of money in which the awards are respectively made, as furnished to Mr. Marescal by the gentlemen on the Mexican side, are the same amounts as those herein reported from the statement furnished me by the American secretary.

The statements in the tables herewith transmitted are, therefore, of the total amounts of the awards in the respective cases therein mentioned, including the principal sums respectively awarded and the interest and costs awarded, where interest and costs were allowed as ascertained by the calculations to which I have referred.

It has not been the practice of the commissioners or the umpires to formulate and sign awards separate from their opinions.

The opinions both upon claims allowed and claims dismissed or disallowed, contain in most instances full and sometimes lengthy expositions of the grounds of the decisions. The opinions are not in print. I think, however, the Department will find it convenient to possess printed copies, at least of so much of the opinions as constitute the awards of money in the claims allowed by the commissioners or the umpires, and of the various declarations and orders to which I have referred explanatory of the decisions. I suppose they would make a pamphlet of about two hundred pages.

I have the honor to be, very respectfully, your obedient servant,

J. HUBLEY ASHTON.

Hon. HAMILTON FISH,
Secretary of State.

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ERRATA.

Page 317, tenth line from the foot, for "Chalcedonians" read "Chalcidians.
Page 424, *passim*, for "Prado" read "Pardo," except in first line.